

# **EXHIBIT B**

DONNETTE WENGERD - 04/06/2017

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

KIMBERLEE WILLIAMS,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 11-cv-01754
	)	
BASF CATALYSTS, LLC,	)	
et al.,	)	
	)	
Defendants.	)	

- - - - -  
THE VIDEO RECORDED DEPOSITION OF DONNETTE WENGERD  
THURSDAY, APRIL 6, 2017  
- - - - -

The video recorded deposition of DONNETTE  
WENGERD, called by the Defendants for examination  
pursuant to the Ohio Rules of Civil Procedure, taken  
before me, the undersigned, Jill A. Kulewsky, RPR  
and Notary Public within and for the State of Ohio,  
taken at the offices of Thompson Hine, LLP, 3900 Key  
Tower, 127 Public Square, Cleveland, Ohio,  
commencing at 9:44 a.m., the day and date above set  
forth.

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1 APPEARANCES, continued:

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ALSO PRESENT:  
Alex Cook, Videographer

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1 THE VIDEOGRAPHER: This is the  
2 beginning of the video-recorded deposition of  
3 Donnette Wengerd in the case of Kimberlee  
4 Williams, et al. versus BASF Catalysts, LLC, et  
5 al., in the United States District Court for  
6 the District of New Jersey, Civil Action Number  
7 11-CV-01754.

8 My name is Alex Cook. I'm the video  
9 operator. Would counsel please identify  
10 yourselves and state whom you represent.

11 MR. COREN: Good day. I am  
12 Michael Coren. I represent the Plaintiffs in  
13 this case, including the witness today,  
14 Donnette Wengerd.

15 MR. PLACITELLA: John Placitella  
16 for the Plaintiffs.

17 MR. FARRELL: Peter Farrell of  
18 Kirkland & Ellis for Defendant BASF Catalysts.

19 MS. DALMUT: Elizabeth Dalmut,  
20 Kirkland & Ellis, on behalf of BASF Catalysts.

21 MR. GEYERMAN: Grant Geyerman  
22 from Williams & Connolly on behalf --

23 MR. TUNIS: I'm sorry.

24 MR. GEYERMAN: -- of the Cahill  
25 Defendants.



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1 MR. COREN: Eric.

2 MR. TUNIS: Eric Tunis on the  
3 phone on behalf of Thomas Halket.

4 MR. BOYLE: John Boyle by phone  
5 on behalf of Defendant Arthur Dornbusch.

6 MR. COREN: I think that's it.

7 DONNETTE WENGERD

8 of lawful age, called for examination, as provided  
9 by the Ohio Rules of Civil Procedure, being by me  
10 first duly sworn, as hereinafter certified, deposed  
11 and said as follows:

12 EXAMINATION OF DONNETTE WENGERD

13 BY MR. FARRELL:

14 Q Good morning, Mrs. Wengerd. Can you describe  
15 the claims you're pursuing in this case?

16 A I'm pursuing claims against BASF for fraud.

17 Q And what is the fraud?

18 A Fraud was against the claim that was brought on  
19 my mother's behalf, that there was evidence  
20 left out or not provided toward her claim, and  
21 it was therefore thrown out.

22 Q And what is the source of that information?

23 MR. COREN: Donnette, I'm going

24 to instruct you not to answer to the extent

25 your answer relies upon the advice of counsel.

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1 If you can answer the question without

2 incorporating or revealing advice of counsel,

3 please respond to Mr. Farrell's question.

4 A I'm unable to add anything other than the

5 advice of counsel.

6 Q So you have no personal knowledge of the fraud  
7 committed by BASF, other than what you learned  
8 through counsel?

9 A That is correct.

10 Q Do you know when this alleged fraud began?

11 A Not to my knowledge of an exact date, no.

12 Q Did it end on a particular date?

13 A Not to my knowledge.

14 Q Who was involved in the alleged fraud by BASF?

15 MR. COREN: Once again, I

16 instruct you not to answer to the extent your

17 answers rely upon advice of counsel. If you

18 can answer the question without incorporating

19 or revealing advice of counsel, please respond.

20 A I cannot respond without advice of counsel.

21 Q So you have no personal knowledge of who was  
22 involved in an alleged fraud by BASF other than  
23 information provided to you by counsel?

24 A That is correct.

25 Q What is the Westfall case?

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1 A The Westfall case was a case where information  
2 was provided regarding BASF and some of the  
3 evidence of asbestos in their talc, and that is  
4 part of what the fraud is, that that was not  
5 supplied.

6 Q And where did you learn about the Westfall  
7 case?

8 MR. COREN: The same instruction.

9 A Through my attorney.

10 Q So other than conversations with your counsel,  
11 you have no personal knowledge of the Westfall  
12 case?

13 A That's correct.

14 Q Do you know how the Westfall case connects to  
15 the case that your mother filed?

16 A The information that was provided to the  
17 Westfall case was not provided in my mother's  
18 case, and the evidence of such information even  
19 existing was denied by BASF.

20 Q And where did that information come from?

21 MR. COREN: Once again, I  
22 instruct you not to answer to the extent your  
23 answer relies upon the advice of counsel. If  
24 you can answer the question without  
25 incorporating or revealing the advice of

1 counsel, please respond.

2 A The information would come from my attorney. I

3 can't answer without their advice.

4 Q So other than information you learned from  
5 counsel, you can't tell me how the Westfall  
6 case relates to the case that your mother  
7 filed?

8 A That's correct.

9 Q Which attorney told you about the Westfall  
10 case?

11 A That would be Mr. Cohen, as well as Mr. Bevan.

12 Q Who is Mr. Bevan?

13 A Thomas Bevan is another one of my attorneys.

14 Q Is Mr. Bevan representing you in this case?

15 A He is a part of the legal team.

16 Q So he's counsel for you in the Williams case?

17 A He would be a part of the team. There are  
18 quite a few attorneys representing me.

19 Q Who are the other attorneys?

20 A Mr. Cohen, Mr. Placitella. There are also a  
21 few others that I have not met, but I do  
22 understand that they are involved in helping.

23 Q Do you know which law firms they are associated  
24 with?

25 A Cohen and Placitella is one. Bevan and

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1 Mr. Walsh, I believe, is also -- Pat Walsh is a  
2 part of his firm as well.

3 Q When did you last communicate with Mr. Bevan?

4 A That would have been Tuesday.

5 Q And what was the nature of that communication?

6 MR. COREN: To the extent that

7 it was a counsel meeting, I'm going to instruct

8 her not to answer on the basis of

9 attorney-client privilege.

10 Q Did you speak to Mr. Bevan on Tuesday about the  
11 Williams case or something else?

12 A I couldn't speak to what we spoke of because  
13 it's under attorney-client privilege.

14 Q Did you discuss with Mr. Bevan your deposition  
15 today?

16 A Again, anything we discussed would be  
17 attorney-client privilege.

18 Q So you can't tell me whether you discussed  
19 preparation for your deposition with Mr. Bevan?

20 MR. COREN: She's just asserted  
21 her attorney-client privilege, Peter. I don't  
22 understand the difference between the first and  
23 second question.

24 Q Do you know the answer to the question that I'm  
25 asking?

1 A Yes.

2 Q Which product is at issue in this case?

3 A I'm sorry. I don't understand your question.

4 Q Is there a particular product that's at issue  
5 in the Williams case?

6 A The issue would be the fraud that I allege, as  
7 well as my attorneys, that happened during my  
8 mother's case, which caused it to be thrown  
9 out.

10 Q And which product was at issue?

11 A As to the exact paperwork that was fraudulent,  
12 is that what I'm understanding?

13 Q Was there a particular product that you think  
14 is at issue in the Williams case?

15 A I'm sorry. I don't understand what you're  
16 asking.

17 Q What do you think the fraud relates to?

18 A Evidence that there was asbestos within the  
19 talc.

20 Q What talc?

21 A The talc used at Goodyear that my mother was  
22 exposed to and worked with.

23 Q Do you know the brand name of the talc?

24 A There were several.

25 Q Several brand names?

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1 A There were several products within that company  
2 that were used that did contain asbestos and  
3 talc, and I do believe that BASF was a supplier  
4 of those products.

5 Q So your mother was exposed to multiple brands  
6 of asbestos-containing talc at Goodyear?

7 A I understand that --

8 MR. COREN: Excuse me. Well, to  
9 the extent that you knew that from personal  
10 knowledge, you can respond. To the extent that  
11 your answer relies upon information and  
12 discussions with counsel, don't answer.

13 So if you could separate those two and  
14 respond to Mr. Farrell, please do so.

15 A I understand that talc was used in various  
16 places throughout the company and throughout  
17 the production process.

18 Without more information and discussing  
19 it with my attorney, I couldn't say which brand  
20 or which product was used in which placement  
21 throughout the production process.

22 Q So you have no personal knowledge about the  
23 brands of talc that would have been used at  
24 Goodyear?

25 A That is correct. I do not know them all.

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1 Q Do you know any of them?

2 A I do believe Manville was one. I do believe  
3 there were several others, but I don't recall  
4 at this time.

5 Q Do you know what EMTAL talc is?

6 A I understand how it was used in the process.  
7 I've never seen it personally.

8 Q Do you know anything else about EMTAL talc?

9 A No. Only what I've learned through speaking  
10 with my attorneys, as well as a general  
11 understanding of the process and how it was  
12 used from my mother.

13 Q How was it used in the process?

14 A Some of the processes that it was used was to  
15 help so that the rubber would not stick to  
16 various equipment, as well as it was used  
17 within a mixing capacity to help make, I  
18 believe, the rubber itself. I'm not exactly  
19 sure on all the different ways that it was  
20 used.

21 Q Because you don't have personal knowledge?

22 A Correct.

23 Q Your understanding comes from where?

24 A From both my mother and my attorneys.

25 Q How did it come from your mother?



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1 A I was present during her depositions and  
2 overheard through those depositions how the  
3 product was used.

4 Q Anything else?

5 A Not that I recall at this time.

6 Q Do you know what the Ashton Affidavit is?

7 A I do believe it was a part of the complaint  
8 that it was mentioned in there.

9 Q Mentioned in the complaint in this case?

10 A Yes.

11 Q Do you have any knowledge of the Ashton  
12 Affidavit apart from the fact that it's  
13 mentioned in the complaint in this case?

14 A Only through the information provided by my  
15 attorney.

16 Q So other than the fact that the Ashton  
17 Affidavit is mentioned in the complaint in this  
18 case and conversations with counsel, you have  
19 no personal knowledge of the Ashton Affidavit?

20 A That's correct.

21 Q Do you know what the Ashton Affidavit says?

22 A Not without reading it in front of me. I would  
23 not want to quote it.

24 Q Did you do anything to prepare for your  
25 deposition?

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1 A I did meet with counsel.

2 Q Who was there?

3 A Mr. Cohen, also Mr. Placitella, and I also saw  
4 Mr. Bevan.

5 Q And I take it when you say "Mr. Cohen", you  
6 mean Mr. Coren?

7 A Coren, I'm sorry.

8 Q That's okay.

9 A I mispronounced it. My bad.

10 Q When did the meeting occur?

11 A One was on Tuesday, and one was prior to that,  
12 and I do not know the date.

13 Q The day before, a week before, how far before  
14 Tuesday?

15 A Several weeks.

16 Q Several weeks.

17 How long did the meeting on Tuesday last?

18 MR. COREN: Don't answer.

19 A On advice of counsel, I'm not answering that  
20 question.

21 MR. FARRELL: What's the basis  
22 for the instruction not to answer?

23 MR. COREN: Privilege.

24 MR. FARRELL: The length of the  
25 meeting is privileged?

1 MR. COREN: Yeah.

2 Q Do you know how long the meeting lasted?

3 A Yes.

4 Q So you would be able to answer the question but  
5 for the instruction from Mr. Coren?

6 A That's correct.

7 Q Where did the meeting occur?

8 A At Mr. Bevan's office.

9 Q That was the meeting on Tuesday?

10 A That is correct.

11 Q Other than you, Mr. Coren, Placitella,  
12 Mr. Bevan, was anybody else present at the  
13 meeting?

14 A No.

15 Q Did anybody else participate in the meeting?

16 A No.

17 Q Did you review any documents as part of the  
18 meeting on Tuesday?

19 A I was provided previously with a copy of the  
20 complaint, as well as a copy of the Judge's  
21 decision, but other than that, I can't recall  
22 if there was any other specific documents that  
23 I reviewed.

24 Q So just those two documents on Tuesday?

25 A There may have been others. I was provided

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1 quite a bit of information from my attorneys  
2 through --

3 MR. COREN: We're not talking  
4 about what -- he just wants to know what you  
5 reviewed.

6 A That's part of what I reviewed. I don't recall  
7 what the names of the other documents may have  
8 been.

9 Q On what other occasions were you provided  
10 documents by your attorneys?

11 A Various times. I was kept abreast of their  
12 investigation through letters, as well as any  
13 copies of anything that would have been filed  
14 was also sent to me.

15 Q How many letters have you received from your  
16 attorneys?

17 A I do not recall.

18 Q How frequently do they send you letters?

19 A I don't recall.

20 Q Do you still have all the letters?

21 MR. COREN: Don't answer.

22 A On advice of counsel, I'm not answering.

23 MR. FARRELL: What's the basis  
24 for the instruction not to answer whether she  
25 still has the letters from her attorneys?

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1 MR. COREN: They have no  
2 relevance at all to the case, a client's  
3 correspondence within connection of this  
4 matter.

5 MR. FARRELL: So you're  
6 instructing her not to answer based on a  
7 relevance objection?

8 MR. COREN: And also  
9 attorney-client privilege.

10 MR. FARRELL: How is it  
11 privileged whether she still has --

12 MR. COREN: Because the last time  
13 I looked, a letter was communication.

14 MR. FARRELL: I didn't ask about  
15 the substance of the letters. I asked whether  
16 she still possesses the letters.

17 MR. COREN: I've asserted the  
18 objection. Please let's move on.

19 Q Mrs. Wengerd, would you be able to tell me  
20 whether you still have the letters but for the  
21 objection asserted by Mr. Coren?

22 A I may.

23 Q Do you keep a file at home?

24 A Yes.

25 Q The file contains information related to the

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1 Williams case?

2 A Anything that I would have provided would have  
3 come from my attorney.

4 Q Do you keep a file at home of documents related  
5 to the Williams case?

6 A Not specifically to the Williams case. There  
7 is a file that is in regards to all of my  
8 mother's affairs.

9 Q Does that include information related to the  
10 Williams case?

11 A Yes, it may.

12 Q What else is in the file at home that relates  
13 to your mother's affairs?

14 A I believe any information that would be in the  
15 file would be communication between me and my  
16 attorney and, therefore, covered under  
17 privilege.

18 Q Well, I'm not asking you to tell me what the  
19 documents say. Can you give me the subject  
20 matter of the documents?

21 MR. COREN: She just did.

22 A It would be attorney-client privilege to give  
23 you any of the substance or subjects that we  
24 discussed.

25 Q How many documents do you still have from your

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1 mother's original asbestos case?

2 A I couldn't say with any certainty.

3 Q One document?

4 A Definitely more than one document.

5 Q More than ten?

6 MR. COREN: We're not here to  
7 speculate. She knew it was more than one.

8 Q Does it fill a box?

9 A It fills a file folder for sure, but I couldn't  
10 say with any certainty how many documents are  
11 in that file.

12 Q More than a file folder?

13 A I'd have to look to be accurate.

14 Q Have you looked?

15 A Not recently.

16 Q Have you looked at any time in connection with  
17 the Williams case?

18 A Not that I recall.

19 Q Did your attorneys ever ask you to search the  
20 file you keep at home --

21 MR. COREN: Objection.

22 Q -- for documents?

23 MR. COREN: Objection. Don't  
24 answer.

25 A On advice of my attorney, I am not answering.

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1 Q Do you know the answer to that question?

2 A Yes.

3 Q Have you provided the documents that you keep  
4 at home related to your mother's affairs to  
5 your attorneys in this case?

6 MR. COREN: Privilege. Move on.

7 Objection.

8 Q Do you know the answer to that question?

9 A Yes.

10 Q You'd be able to answer it but for the  
11 objection that's been asserted?

12 A That's correct.

13 Q Have any of the documents kept in the file you  
14 have at home been produced to BASF in this  
15 case?

16 MR. COREN: Objection.

17 Privilege. Move on.

18 MR. FARRELL: How is that  
19 privileged?

20 MR. COREN: The work product.

21 Attorney-client and work product.

22 MR. FARRELL: The fact whether  
23 documents have been produced to us in this case  
24 is work product and privileged?

25 MR. COREN: Yeah. You're making



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1 a number of suppositions. I've made my

2 objection and instructed her not to answer.

3 Q Other than the file that you keep at home  
4 related to your mother's affairs, are you aware  
5 of any other documents that relate to your  
6 mother's asbestos case?

7 A Not within my personal possession.

8 Q What about documents outside of your personal  
9 possession?

10 A That would be speculation. I don't know what  
11 else exists out there.

12 Q Do you have any personal knowledge of documents  
13 related to your mother's asbestos case other  
14 than the file you keep at home?

15 A I would assume that my attorneys have documents  
16 in their files.

17 Q Which attorneys?

18 A I would think that my entire attorney team  
19 would have access to all of that information.

20 Q Have you spoken to Mr. Bevan about whether he  
21 has documents related to your mother's asbestos  
22 case?

23 MR. COREN: Objection.

24 Privilege. Do not respond.

25 Q Do you know one way or the other whether

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1 Mr. Bevan has documents in his possession

2 related to your mother's asbestos case?

3 MR. COREN: Objection.

4 Privilege. Don't respond.

5 A According to my attorney, I am choosing not to  
6 respond.

7 Q Do you know the answer to that question?

8 A Yes.

9 Q You mentioned a second meeting to prepare for  
10 your deposition. Who was at that second  
11 meeting?

12 A Mr. Placitella. And there was also another  
13 person from his firm, but I can't recall her  
14 name at the moment.

15 Q It was a woman from the Cohen Placitella firm?

16 A That's correct.

17 Q When you say "Mr. Placitella", do you mean  
18 Jared or --

19 A I do.

20 Q -- Chris?

21 Were you provided any documents at that  
22 meeting?

23 MR. COREN: Objection.

24 A Per my attorney, I'm not answering the question  
25 due to his objection.

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1 Q At the meeting you had on Tuesday to prepare  
2 for your deposition, you told me you had  
3 reviewed some documents, correct?

4 A They were documents that were previously  
5 provided to me.

6 Q When were they provided to you?

7 A Several weeks, if not a month or more prior to.

8 Q Did any of the documents you've reviewed  
9 refresh your recollection?

10 A No, not particularly.

11 Q Did any one document refresh your recollection  
12 about this case?

13 A No, not particularly.

14 Q Have you spoken to anybody about your  
15 deposition other than counsel?

16 A No.

17 Q Other than meeting with counsel, did you do  
18 anything else to prepare for your deposition?

19 A No.

20 Q Have you looked at any documents to prepare for  
21 your deposition other than the complaint and  
22 the Judge's decision you mentioned?

23 A No.

24 Q When you say "the Judge's decision", do you  
25 mean the Court of Appeals' decision in the

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1 Williams case?

2 A I believe that is it.

3 Q Other than the Williams complaint and the Court  
4 of Appeals' decision, you've received  
5 additional documents from counsel, correct?

6 A The information that I received from counsel  
7 has been mostly letters updating me on the  
8 status of how things are going, as well as the  
9 original complaint that was filed, which was  
10 provided quite some time ago. The one that I  
11 reviewed was the amended.

12 Q The first or the second? The First Amended  
13 Complaint or the Second Amended Complaint?

14 A I don't recall.

15 Q How many complaints have been filed in this  
16 case?

17 A I would have to check my records to be certain.

18 Q Have you seen all of them?

19 A I believe they have provided me with all of  
20 them.

21 Q Who did the letters from counsel come from?

22 A They were from a variety of my different  
23 attorneys. There was no one name on all of the  
24 letters or all of the documents.

25 Q Which attorneys have sent you letters related

1 to the Williams case?

2 MR. COREN: Objection. Don't

3 answer.

4 MR. FARRELL: What's the basis

5 for the objection?

6 MR. COREN: Attorney-client

7 communication.

8 MR. FARRELL: The identity of the

9 lawyer is attorney-client privilege?

10 MR. COREN: The whole

11 communication is in our view. Move on.

12 Q Do you know the names of the attorneys who sent  
13 you letters?

14 A No. Not without looking at the letters  
15 themselves.

16 Q But you would be able to answer that question  
17 by checking the letters?

18 A Yes.

19 Q Do you still have the letters?

20 A I would have to check the file to be certain.

21 Q How many letters are we talking about?

22 A Again, without checking the file, I would be  
23 guessing.

24 Q More than ten?

25 A Again, I would be guessing.

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1 Q More than 20?

2 A Would you like me to guess?

3 MR. COREN: No.

4 Q Yes.

5 MR. COREN: And the answer is no.

6 We're not here to guess. We're here to provide  
7 facts.

8 Q Could you give me a ballpark?

9 A No.

10 Q Have you ever been deposed before?

11 A I don't recall.

12 Q You don't know one way or the other whether  
13 this is your first deposition?

14 A No. I don't recall.

15 Q It doesn't seem like the sort of thing you'd  
16 remember if you had been deposed before?

17 A I was a guardian ad litem for eight-and-a-half  
18 years and represented over 30 children, as well  
19 as I have also been involved with my mother's  
20 entire affairs, so no.

21 Q Were you deposed in connection with your  
22 mother's asbestos case?

23 A It's been almost ten years. I don't think so,  
24 but I couldn't be certain.

25 Q Have you ever been a Plaintiff in a case other

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1 than the Williams case?

2 A Yes.

3 Q Which cases were you a Plaintiff in?

4 A I would have to check my files for certainty of  
5 the names of the cases.

6 Q So multiple cases?

7 A Well, in accordance with my mother's business  
8 and with her estate, yes, there have been  
9 multiple. As well as there has been, I  
10 believe, one personally.

11 Q What was the one you were involved in  
12 personally?

13 A It was on my husband's behalf when he was in an  
14 accident.

15 Q How many -- withdrawn.

16 In how many cases were you the Plaintiff  
17 because of an issue related to your mother's  
18 injuries?

19 A I couldn't say with any certainty.

20 Q Do you still have all of those records?

21 A I would have to check my file to see what  
22 exactly is in there.

23 Q And that's the same file that you keep at home?

24 A Yes.

25 Q But it's fair to say you've been a Plaintiff in

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1 a case related to your mother's asbestos  
2 exposure on more than one instance?

3 A Yes.

4 Q Have you ever been a Defendant in a case?

5 A No. Not to my knowledge.

6 Q How many -- withdrawn.

7 And how many cases was your mother the  
8 Plaintiff?

9 A I would have to check with my attorneys for an  
10 accurate answer to that.

11 Q But it's something you could determine?

12 A No. It's information my attorneys would have  
13 to provide.

14 Q But somebody could determine the answer of how  
15 many cases your mother was a Plaintiff in?

16 A My attorneys could provide that information if  
17 it didn't go against attorney-client privilege.

18 Q Is there anyone other than your attorneys who  
19 would know how many cases your mother filed  
20 related to her asbestos injuries?

21 A Not that I'm aware.

22 Q Is it more than one case?

23 A That she filed? Yes. I believe so.

24 Q More than two cases?

25 A Yes. I believe so.



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1 Q More than five cases?

2 A I wouldn't know without seeking information  
3 from my attorney.

4 Q Was your mother the Plaintiff in any case  
5 unrelated to asbestos exposure?

6 A I'm not sure, other than perhaps her divorce.

7 Q Was your mother the Plaintiff in a case related  
8 to exposure to a drug called DES?

9 A She may have been. That was something, I  
10 believe, my grandmother was provided during her  
11 pregnancy. But I don't have any information as  
12 to any legal action.

13 Q Do you know anything about the case?

14 A I don't know if there was a case.

15 Q Do you know anything about your mother's  
16 potential exposure to DES?

17 A I don't know much about DES, other than it was  
18 something provided during pregnancy to women  
19 that often caused issues within the birth or  
20 the child. I'm afraid I'm not an expert on the  
21 subject, so I don't know more.

22 Q Do you know whether your mother believed that  
23 she had been harmed by exposure to DES?

24 A It's very possible, but I couldn't say with any  
25 certainty. I know it was something that was

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1 somewhat discussed, that she was exposed during  
2 my grandmother's pregnancy. But without  
3 reviewing medical records or consulting with  
4 someone more knowledgeable, I couldn't say if  
5 she was or was not.

6 Q Do you know whether your mother disclosed in  
7 her asbestos cases that she was exposed to DES?

8 A She may have, but I don't recall.

9 Q Do you know of somebody who would know the  
10 answer to that question?

11 A I think the transcripts from any of her  
12 depositions would provide that information.

13 Q What if it was disclosed in a context other  
14 than her deposition, who would know about that?

15 A That would be under attorney-client privilege.

16 Q If it was disclosed to the Defendants in the  
17 case, that would be privileged?

18 A Then it should be in some of the documentation  
19 that's on file with the Court or within her  
20 deposition itself.

21 Q But I'm asking a slightly different question.

22 If I wanted to talk to somebody about whether

23 information about your mother's exposure to DES

24 had been disclosed to the Defendants in your

25 mother's asbestos case, who would I talk to?

1 MR. COREN: Objection. Do you

2 have any knowledge of that?

3 THE WITNESS: Not that I recall.

4 MR. COREN: Next question.

5 Q Can you identify one person?

6 MR. COREN: Next question. We're

7 not here to speculate.

8 A I would have to check with my attorneys to see

9 if there's any information on file. Other than

10 that, I have no other information.

11 Q Which attorney would you check with?

12 A I would check with primarily Thomas Bevan.

13 Q Why would you check with Mr. Bevan?

14 A He's been one of my main points of contact with  
15 the attorneys.

16 Q How long have you known Mr. Bevan?

17 A Since 2008.

18 Q How did you come to meet him?

19 A Through my mother's claims of asbestos  
20 exposure.

21 Q Did you retain Mr. Bevan, or did your mother  
22 retain him?

23 A I believe she retained him initially.

24 Q Do you know how your mother came to know  
25 Mr. Bevan?

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1 A I'm not sure how she was given his name or if  
2 that was something she sought.

3 Q But Mr. Bevan handled her asbestos cases?

4 A Yes. He has handled quite a bit of her estate  
5 affairs, yes.

6 Q So he handles her asbestos cases and her estate  
7 affairs?

8 A He has definitely helped with the asbestos  
9 cases, which are a part of her estate affairs.

10 Q So if we wanted to know more information about  
11 your mother's asbestos case, Mr. Bevan would be  
12 the person to talk to?

13 A I'm sure he or any of my legal  
14 representation -- representatives could provide  
15 the information you request.

16 Q Do you interact with anybody at the Bevan firm  
17 other than Mr. Bevan himself?

18 A I do interact with Erin, who is -- you know,  
19 I'm not exactly sure of her title, but I  
20 believe she's a paralegal.

21 Q Other than Mr. Bevan and Erin, who you think is  
22 a paralegal, do you communicate with anybody  
23 else at the Bevan firm?

24 A Early on in the case I spoke with Pat Walsh,  
25 who was involved in helping with my mother's

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1 legal cases.

2 I believe Mr. Moskowitz, who was another  
3 attorney at the firm, has sent me some  
4 communication, but that's all I can recall.

5 Q And when you say "this case", do you mean the  
6 Williams case or your mother's asbestos case?

7 A My mother's asbestos claims in general.

8 Q Why do you say "in general"?

9 A Because it not only speaks of the Williams  
10 case, but it can also speak to any of the other  
11 legal matters that they have dealt with for me  
12 or my mother.

13 Q Have you spoken to Mr. Walsh about the Williams  
14 case?

15 MR. COREN: Object. I instruct  
16 you not to answer.

17 MR. FARRELL: What's the basis  
18 for the instruction?

19 MR. COREN: Attorney-client  
20 communication.

21 Q Without revealing what was said between you and  
22 Mr. Walsh, have you discussed the subject of  
23 the Williams case with him?

24 MR. COREN: Objection.

25 A Per my attorney's advice, I choose not to

1 answer the question.

2 Q What about Mr. -- did you say Moskowitz?

3 A Yes.

4 Q Have you discussed the subject of the Williams  
5 case with Mr. Moskowitz?

6 A No.

7 Q Do you know one way or the other whether you  
8 have discussed the Williams case with  
9 Mr. Walsh?

10 A Yes.

11 Q So but for the objection and instruction not to  
12 answer, you could tell me the answer to that  
13 question?

14 A Yes.

15 Q How many times have you spoken to Mr. Walsh?

16 A Do you have a specific time period?

17 Q You tell me. How many times do you communicate  
18 with him?

19 A I would be guessing at how many times I've  
20 spoken to the man.

21 Q Well, when did you first meet him?

22 A 2008.

23 Q Have you spoken to him this year?

24 A No.

25 Q When was the last time you talked to him?

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1 A I don't recall.

2 Q What about Mr. Moskowitz?

3 A Usually -- I don't think I've ever spoken to  
4 him personally. I just received communication  
5 from him.

6 Q In what form?

7 A A letter.

8 Q Do you receive e-mails from the Bevan firm?

9 A I may have. Typically everything is in letter  
10 form received via snail mail.

11 Q Your mother's case was filed in 2008, correct?

12 A Yes.

13 Q Were you using e-mail in 2008?

14 A I don't remember.

15 Q Have you ever received e-mail communications  
16 from anybody at the Bevan firm?

17 A That is possible.

18 Q Have you checked?

19 A I'm terrible at checking my e-mails. So I'm  
20 afraid I don't remember.

21 Q At any time during the pendency of the Williams  
22 case, have you looked to see whether you have  
23 e-mail communications from somebody at the  
24 Bevan firm?

25 A Yes. I think so.

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1 Q When was that?

2 A That I checked my e-mail for that? I was sent  
3 something by Mr. Cohen's office -- Coren's  
4 office about the date change and time change of  
5 attending here.

6 Q When was that?

7 A A few days ago.

8 Q At any time after the Williams case was filed,  
9 have you checked your e-mails to see whether  
10 you have received e-mails from anybody at the  
11 Bevan firm?

12 A I don't recall. I may have.

13 Q You don't know one way or the other?

14 A No. I'm terrible at checking my e-mails. So  
15 they tend to send me a hardcopy sometimes.

16 Q Have you searched your e-mails at any time  
17 since the Williams case was filed to see  
18 whether you have e-mail communications from  
19 someone at the Bevan firm?

20 A Yes.

21 Q When was that?

22 A When I was told that this meeting was changed  
23 and there was a new address.

24 Q Have you searched your e-mails to see whether  
25 you have any e-mail communications from the



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1 Bevan firm so that you could provide those  
2 e-mails to Plaintiff's counsel?

3 MR. COREN: Objection. It's work  
4 product. Don't answer.

5 A On the advice of my attorney, I'm not  
6 answering.

7 Q Has Plaintiff's counsel asked you whether you  
8 have e-mail communications from the Bevan firm  
9 that relate to your mother's asbestos case?

10 MR. COREN: Objection. Same  
11 instruction. Don't answer. Work product.

12 A Again, based on my attorney's information not  
13 to answer the question.

14 Q Do you know the answer to that question?

15 A Yes.

16 Q Have you provided any e-mails you received from  
17 the Bevan firm to the Cohen Placitella firm?

18 MR. COREN: Objection. Same  
19 instruction. Work product.

20 MR. GEYERMAN: Court reporter,  
21 could you mark every time there's an  
22 instruction not to answer, please. Thank you.

23 A Per my attorney's advice, I'm choosing not to  
24 answer.

25 Q You're following the direction not to answer

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1 the question?

2 A That's correct.

3 Q Do you know the answer to the question?

4 A Yes.

5 Q Have you seen requests for the production of  
6 documents in this case?

7 A I don't recall.

8 Q Do you know whether BASF has asked you to  
9 produce documents in this case?

10 A I don't recall seeing anything of that nature.

11 Q As you sit here today, you don't recall ever  
12 seeing requests for production that BASF served  
13 in this case?

14 A I'm pretty sure that those do exist, but if  
15 you're asking me if I remember seeing those  
16 specific documents, I do not.

17 Q Has anybody discussed with you your obligation  
18 to produce documents in response to those  
19 requests?

20 A Any documents that would have been requested  
21 have been provided to my attorneys. Nor do I  
22 have anything to provide at this time that has  
23 not been provided to my attorney.

24 Q So you provided -- did you provide the whole  
25 file related to your mother's affairs to the

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1 Cohen Placitella firm?

2 MR. COREN: Objection. Same

3 instruction.

4 A That is under attorney-client privilege, and

5 I'm choosing not to answer.

6 Q Do you know the answer to that question?

7 A Yes.

8 Q Have you provided the whole file you keep at

9 home related to your mother's affairs to the

10 Bevan firm?

11 MR. COREN: Objection.

12 A Again, per attorney-client privilege, I'm not

13 answering the question.

14 Q Do you know whether any of the documents you

15 keep in your file at home related to your

16 mother's affairs have been produced to the

17 Defendants in the Williams case?

18 MR. COREN: Objection.

19 A Per my attorney's suggestion, I am not

20 answering the question.

21 Q I didn't hear an instruction not to answer.

22 MR. COREN: Well, I will. So

23 instructed.

24 MR. FARRELL: What is the basis

25 for the instruction?

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1 MR. COREN: Work product.

2 MR. FARRELL: You're asserting a

3 work product objection to whether she knows

4 whether documents in her file at home have been

5 produced to the Defendants?

6 MR. COREN: The answer -- yes,

7 work product. How does a client know what is

8 in part of the production or not without -- so

9 the answer is work product.

10 Also, attorney-client privilege to some

11 extent.

12 Q Do you know the answer to that question?

13 A Yes.

14 Q So you would be able to answer it but for the  
15 objection and instruction not to answer?

16 A That's correct.

17 Q Did you have any meeting with your attorneys  
18 before your complaint in this case was filed?

19 A Yes. I believe so.

20 Q How many times did you meet with the Cohen  
21 Placitella firm before the Williams case was  
22 first filed?

23 A I believe only once when I met him.

24 Q Who is the "him"?

25 A Mr. Coren.

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1 Q To your knowledge, there was only one meeting  
2 with the Cohen Placitella firm before the  
3 Williams case was filed?

4 A Yes.

5 Q How many times did you communicate with the  
6 Cohen Placitella firm before the Williams case  
7 was filed?

8 A I don't remember.

9 Q Are there any instances you can recall?

10 A No.

11 Q How did you come to know the Cohen Placitella  
12 firm?

13 A I was introduced by Thomas Bevan.

14 Q So Mr. Bevan referred you to the Cohen  
15 Placitella firm?

16 A Correct.

17 Q When was that?

18 A Sometime after my mother's death. Possibly  
19 2009.

20 Q Before the Williams case was filed, did you  
21 meet with anybody at the Bevan firm to discuss  
22 filing the Williams case?

23 A I don't recall.

24 Q Did you communicate with anybody at the Bevan  
25 firm before the Williams case was filed to

1 discuss filing this case?

2 A I don't recall, other than the one meeting to  
3 introduce me to Mr. Coren's firm.

4 Q So you met with the Cohen Placitella firm the  
5 one time, and then they filed this case on your  
6 behalf?

7 A I believe there may have been phone calls or  
8 letters, but to say how many or when, I don't  
9 recall.

10 Q Do you still have those letters?

11 A I may. I would have to check my file.

12 Q Have you checked your file to see if you have  
13 those letters before today?

14 A No.

15 Q When did this one meeting with the Cohen  
16 Placitella firm occur?

17 A I think it might have been in 2009, but I don't  
18 recall exactly.

19 Q Where did the meeting occur?

20 A Mr. Bevan's office.

21 Q How long did the meeting last?

22 MR. COREN: Don't answer.

23 A I don't recall.

24 Q Who was at the meeting?

25 A Mr. Coren, I believe, and Mr. Bevan. I don't

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1 remember if Mr. Walsh was in attendance or not.

2 Q Anyone else?

3 A Not that I can recall.

4 Q Was there anybody at this meeting at  
5 Mr. Bevan's office who was not an attorney?

6 A I don't recall.

7 Q Were any of the other Plaintiffs in the  
8 Williams case at the meeting at Mr. Bevan's  
9 office?

10 A No.

11 Q How many people were at the meeting?

12 A I believe there were just the three. Possibly  
13 Mr. Walsh, but I don't recall.

14 Q Were you the only Plaintiff at this meeting  
15 with Mr. Bevan and Mr. Coren?

16 A Yes.

17 Q Were you shown any documents at that meeting  
18 with Mr. Bevan and Mr. Coren?

19 A I don't recall.

20 Q Did they give you a presentation?

21 A I don't recall.

22 Q Did they explain the nature of the Williams  
23 case to you?

24 A Yes. I believe so.

25 Q Is that --

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1 MR. TUNIS: Hello. This is Eric  
2 Tunis. I just want to say that my phone  
3 connection cut off for about a minute or two.  
4 I don't need for you to summarize the testimony  
5 I missed, and you can proceed. I'm just --

6 MR. FARRELL: You're interrupting  
7 my questioning. Thank you.

8 Q At that meeting with Mr. Bevan and Mr. Coren,  
9 was that when you first learned about the  
10 allegations that are in the Williams complaint?

11 MR. COREN: Objection.  
12 Privilege.

13 A That would be privileged information. I'm  
14 choosing not to answer.

15 Q Did you have any knowledge of the factual  
16 allegations in the Williams case before you met  
17 with Mr. Coren?

18 A Not to my knowledge.

19 Q Have you met any of the other Plaintiffs in the  
20 Williams case?

21 A No.

22 Q Have you spoken to them?

23 A No.

24 Q Other than -- have you communicated with them  
25 in any way?



1 A No.

2 Q Other than this meeting with Mr. Bevan and  
3 Mr. Coren, have you had any other  
4 communications with them concerning the basis  
5 for the Williams case?

6 MR. COREN: Objection. Don't  
7 answer.

8 A Per my attorney's suggestion not to answer, I'm  
9 choosing not to answer the question.

10 MR. FARRELL: So you're  
11 instructing her not to answer the question --

12 MR. COREN: Correct.

13 MR. FARRELL: -- of whether the  
14 communications exist?

15 MR. COREN: Yes.

16 Q Do you know the answer to that question?

17 A I'm confused who you are asking it between.  
18 Myself and the other Plaintiffs?

19 Q We talked about a meeting that you had where  
20 Mr. Bevan was present and Mr. Coren was  
21 present, right?

22 A Right.

23 Q What I'm asking is, other than that meeting,  
24 have you had any other communications with the  
25 Cohen Placitella firm concerning the basis for

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1 the Williams case?

2 A Oh. Then yes, I could answer it. But on the  
3 advice of my attorney, I'm not answering the  
4 question.

5 Q Other than the one meeting you've told me  
6 about, have you had any other communications  
7 with the Bevan firm concerning the basis for  
8 the Williams case?

9 A I don't recall.

10 Q Which allegations in the Williams complaint are  
11 based on your personal knowledge?

12 A None of them would be from my personal  
13 knowledge.

14 Q So all of the information that's contained in  
15 the Williams complaint came from counsel?

16 A Correct.

17 Q Some of them came from Mr. Bevan?

18 A I couldn't say without any certainty.

19 Q Do you know which allegations in the Williams  
20 complaint came from Mr. Bevan as opposed to the  
21 Cohen Placitella firm?

22 A No. I'm sorry. I don't know.

23 Q Did you have any role in drafting the Williams  
24 complaint?

25 A No.

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1 Q Was it shown to you before it was filed?

2 A Yes. I believe I received a copy either prior  
3 to or just after it was filed, but I'm not  
4 certain which.

5 Q You don't know one way or the other whether the  
6 first time you saw the complaint was before or  
7 after it was filed?

8 A Not without looking at my file or consulting  
9 with my attorney.

10 Q Do you still have those records?

11 A Anything that I would have in my files at home  
12 would be under attorney-client privilege.

13 Q Well, I'm not asking you to tell me what they  
14 say. I'm just asking whether you still have  
15 them. Do you still have the copy of the  
16 complaint you received?

17 A I may. I would have to check my file.

18 Q Do you keep files related to the Williams case  
19 in any location other than your home?

20 A No.

21 Q Do you have electronic files at home related to  
22 the Williams case?

23 A No.

24 Q Do you have electronic files at home related to  
25 your mother's asbestos case?

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1 A No.

2 Q So everything is in hardcopy?

3 A Yes.

4 Q So you told me earlier that you had also  
5 seen -- or that you had seen the amended  
6 complaint in this case.

7 Do you recall that?

8 A Correct.

9 Q Did you see the original complaint that was  
10 filed?

11 A Yes.

12 Q Which amended complaint did you see?

13 MR. COREN: Asked and answered.

14 A Again, I can't recall.

15 Q Do you know whether you saw the amended  
16 complaint before or after it was filed?

17 A Again, I don't recall if it was before or  
18 after.

19 Q Did you have any role in drafting either of the  
20 amended complaints that were filed in the  
21 Williams case?

22 A No.

23 Q Were either of the amended complaints based on  
24 your personal knowledge?

25 A No.

1 Q During this meeting with Mr. Bevan and  
2 Mr. Coren, did you take any notes?

3 A No.

4 Q Did they take any notes?

5 MR. COREN: Objection. Don't  
6 answer.

7 MR. FARRELL: What is the basis  
8 for the instruction not to answer?

9 MR. COREN: Work product.  
10 Attorney-client privilege.

11 MR. FARRELL: The fact that  
12 whether you took notes is privileged?

13 MR. COREN: Everything is, yes.  
14 Move on.

15 MR. FARRELL: Everything is  
16 privileged.

17 Q Do you know the answer to whether Mr. Coren or  
18 Mr. Bevan took notes at their meeting with you?

19 A Yes.

20 Q You could answer that question but for the  
21 instruction not to answer?

22 A That is correct.

23 MR. COREN: Peter, I look forward  
24 to seeing all your notes with your meetings  
25 with your clients.

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1 MR. FARRELL: I didn't ask to see  
2 the notes, Michael. I asked whether they  
3 existed.

4 Q Do you still -- withdrawn.

5 Have you signed a retention letter  
6 retaining the Cohen Placitella firm in the  
7 Williams case?

8 A Yes. I believe I have.

9 Q Do you have a copy of that letter?

10 A I would have to check my file for certainty.

11 Q You don't know one way or the other whether you  
12 still have the retention letter?

13 A I couldn't tell you if my electric bill is in  
14 that file, sir, without looking at the file  
15 itself.

16 Q Well, I'm not asking whether it's in the file.  
17 I'm just asking do you know, as you sit here  
18 today, one way or the other whether you still  
19 have the retention letter that you signed  
20 retaining the Cohen Placitella firm?

21 A I don't know.

22 Q Did you sign a retention letter retaining the  
23 Bevan firm in connection with the Williams  
24 case?

25 A I don't know. I can't recall if there was one

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1 with Bevan. I do know that I do believe that I  
2 signed one with Mr. Coren's firm.

3 Q When you first spoke to the Cohen Placitella  
4 firm about potentially being a Plaintiff in the  
5 Williams case, did they tell you to preserve  
6 all of the documents related to your mother's  
7 asbestos case?

8 MR. COREN: Objection.

9 Privilege. Move on.

10 A Per my attorney's suggestion not to answer the  
11 question.

12 Q Is it your understanding, Mrs. Wengerd, that  
13 you're supposed to preserve all of the  
14 documents related to your mother's asbestos  
15 case?

16 MR. COREN: Objection.

17 Privilege. Move on.

18 A Again, per my attorney's information, I'm  
19 choosing not to answer.

20 Q Do you know the answer to that question?

21 A Yes.

22 Q Does the retention letter you have with the  
23 Cohen Placitella firm address the fees that  
24 they would receive for acting as counsel in  
25 this case?

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1 MR. COREN: Objection. Don't

2 answer.

3 A That would be attorney-client privilege, I

4 believe.

5 Q You believe, or it is?

6 MR. COREN: It is. Move on. I'm

7 asserting it for her.

8 MR. FARRELL: Your position is

9 that your fee arrangement with the Plaintiffs

10 in this class action is privileged?

11 MR. COREN: Yes. It's a fee --

12 it's a client communication, a fee retainer.

13 If His Honor would like to see it, we will

14 provide it. Move on.

15 Q Do you know the answer to the question I asked?

16 A I'm not sure without looking at the document  
17 itself.

18 Q Without looking at the retention letter, you

19 don't know the nature of the fee arrangement

20 you have with the Cohen Placitella firm?

21 MR. COREN: Objection.

22 A Per my attorney's suggestion not to answer the

23 question, I'm choosing not to answer.

24 Q Do you know the answer to that question?

25 A No. I'm not sure.



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1 Q What is the fee arrangement you have with the  
2 Bevan firm?

3 A That would be attorney-client privileged  
4 information.

5 Q Do you know the answer to that question?

6 A Yes.

7 Q What's the answer?

8 MR. COREN: Excuse me --

9 A It's attorney-client privileged.

10 MR. COREN: She asserted it.

11 Q Are you paying the Cohen Placitella firm right  
12 now?

13 MR. COREN: Objection. Don't  
14 answer.

15 A It would be attorney-client privileged  
16 information, any fee agreement that I may have  
17 with the firm.

18 Q Have you paid any money to the Bevan firm to  
19 represent you in the Williams case?

20 MR. COREN: Objection. Same.

21 A Again, same. I'm choosing not to answer.

22 Q Is any other law firm representing you in  
23 connection with the Williams case other than  
24 Cohen Placitella and the Bevan firm?

25 A I believe there is another attorney on the team

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1           that is a part of another firm. But I couldn't  
2           say with any certainty his name.

3     Q     Do you know the name of the firm?

4     A     I don't recall.

5     Q     Have you signed any other retention letters  
6           retaining other counsel in connection with the  
7           Williams case?

8     A     No.

9     Q     What's the difference between a class action  
10          and an individual action?

11    A     The difference is --

12                         MR. COREN: To the extent --  
13          you're asking her for a legal distinction?

14    Q     I'm asking for your -- do you have an  
15          understanding of whether there's a difference  
16          between a class action and an individual  
17          action?

18    A     Yes.

19    Q     What's the difference?

20    A     A class action would be representation of  
21          several parties, and a single party would be a  
22          lone representation of one person or client or  
23          entity.

24    Q     So you understand that the Williams case is a  
25          class action case?

1 A Yes.

2 Q Do you have duties to the members of the class  
3 in the Williams case?

4 A I do.

5 Q What are those duties?

6 A I have a fiduciary duty to represent those  
7 parties within this class, to represent them  
8 and to make the best decisions as a part of the  
9 group for this case.

10 Q And you view that as an important role?

11 A I do.

12 Q Who is in the Williams class?

13 A I'm sorry. I don't know their names, and I  
14 haven't met them all, without looking at the  
15 documents themselves.

16 Q Well, how many people are in the Williams  
17 class?

18 A I believe it's an et al., so it's quite a few.  
19 It's an open-ended, I believe, correct?

20 Q I'm asking for your understanding. Do you know  
21 how many people are in the Williams class?

22 A I believe there's six that are representatives,  
23 but again, because it's an et al., it could be  
24 open to a number of different people.

25 Q Why do you say it's an open number of people?

1 A Because under more investigation, there may be  
2 more that could be found and represented  
3 through this firm or through this case.

4 Q Who do you think is in the Williams class?

5 A For the Plaintiffs?

6 Q Yes.

7 A People who were wronged by BASF through their  
8 fraud.

9 Q What do you mean by that?

10 A People who had other cases that are separate  
11 from mine and who were wronged in the same  
12 fraudulent way as my own case.

13 Q What do you mean "the same fraudulent way"?

14 A That information was not provided or was not  
15 disclosed or there were actions taken that they  
16 were also harmed through their cases, as was my  
17 mother's.

18 Q Do you think people who never sued BASF at all  
19 are within the Williams class?

20 A I wouldn't know. I wouldn't know if there --  
21 I'm not familiar enough with the other members  
22 in the class to know their cases well enough to  
23 speak to that.

24 Q Well, if there were compensation available as  
25 part of this class action, do you think people

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1 who never filed a case against BASF should get  
2 a portion of that money?

3 MR. COREN: Objection.

4 A Per my attorney's suggestion not to answer, I'm  
5 choosing not to answer.

6 Q Well, he's hasn't instructed you not to answer.

7 MR. COREN: If you have -- I'm  
8 going to instruct you not to answer that to the  
9 extent that your answer relies on the advice of  
10 counsel. If you could answer this question  
11 without incorporating or revealing advice of  
12 counsel, then you can respond.

13 A I have no personal information to respond other  
14 than advice of counsel.

15 Q Well, you mentioned earlier that you were  
16 acting as a fiduciary on behalf of members of  
17 the class.

18 Do you recall that?

19 A Correct.

20 Q Do you feel as though you're acting as a  
21 fiduciary for people who have never sued BASF  
22 or Engelhard?

23 A I believe that I am acting on behalf of those  
24 who have and those who may still come to light  
25 who have not been sick yet, who may not have

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1        been identified as of yet and may be in the  
2        future.

3        Q    So people who have not yet become sick are a  
4        part of the Williams class in your view?

5        A    It is possible.

6        Q    Do you know one way or the other?

7        A    No, because I'm not an expert.

8        Q    Do you think that people who weren't exposed to  
9        talc at all are part of the Williams class?

10      A    No. I believe if they were not exposed to talc  
11      and the asbestos in the talc, that they  
12      wouldn't have a claim in this specific  
13      instance.

14      Q    So if somebody wasn't exposed to talc at all,  
15      they shouldn't get any money from the Williams  
16      case; is that fair?

17                      MR. COREN: Objection.

18      A    I'm not an expert on the subject. So  
19      unfortunately, I'm unable to answer that.

20      Q    I'm just asking you whether you think it would  
21      be fair for somebody who wasn't exposed to talc  
22      at all to receive money in connection with the  
23      Williams case?

24                      MR. COREN: We're not here for  
25      her mental impressions for what is fair or

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1 fairness on a distribution plan. Move on, next  
2 question.

3 MR. FARRELL: What is the basis  
4 for the instruction not to answer the question?

5 MR. COREN: It has no relevance  
6 whatsoever. Two, you're asking her for her  
7 mental impressions and her work product.

8 MR. FARRELL: Is your instruction  
9 not to answer based on relevance or on work  
10 product?

11 MR. COREN: Both.

12 Q Do you know the answer to that question?

13 A I'm not sure.

14 Q Would you be able to tell me whether you think  
15 it's fair for somebody who wasn't exposed to  
16 talc at all to receive money in connection with  
17 the Williams case?

18 MR. COREN: The answer -- it's a  
19 back door way of asking the same question,  
20 Peter, and to invade her work product, and  
21 relevance. Next question.

22 MR. FARRELL: You're instructing  
23 her not to answer?

24 MR. COREN: That is correct.

25 Q Are all of the people in the Williams class

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1 individuals who used to work at tire plants?

2 A No. Not to my knowledge.

3 Q So what occupations would have been held by  
4 people who are in the Williams class?

5 A I don't know their cases well enough to speak  
6 to them or their cases.

7 Q Some of them were tire workers?

8 A I'm not sure.

9 Q Have you looked into it?

10 A No. I've only looked into my specific case. I  
11 have not researched the other Plaintiffs in the  
12 case or their complaints.

13 Q You don't have any information about the other  
14 cases or complaints that have been filed  
15 against BASF or Engelhard in the past?

16 A No. That would be something that my attorneys  
17 would do.

18 Q Which attorney would have done that?

19 A Any one of them.

20 Q Do you know of any one of them who has done  
21 that?

22 MR. COREN: Objection. Now

23 you're getting back -- once again, it's work

24 product. Now you're getting into

25 attorney-client communication. So I'm



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1       instructing her not to answer.

2       Q    Let me ask you it this way, Mrs. Wengerd:  If I  
3            wanted to know information about what happened  
4            in your mother's original asbestos case, Tom  
5            Bevan would have some of that information,  
6            correct?

7       A    That's correct.

8       Q    He would have a lot of that information,  
9            correct?

10      A    Correct.

11      Q    If I wanted to know what actually happened in  
12            your mother's original asbestos case, Tom Bevan  
13            would be the best person to talk to about that,  
14            correct?

15      A    Correct.

16                           MR. COREN:  Objection.

17      Q    If I wanted to know --

18                           MR. COREN:  That's a form one, by  
19            the way.

20      Q    If I wanted to know information about other  
21            cases that had been filed against Engelhard or  
22            BASF related to talc, the best person to talk  
23            to to get information about those cases would  
24            be the Plaintiffs' lawyer who filed them,  
25            correct?

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1 MR. COREN: Objection. Calls for  
2 speculation.

3 A I'm not sure that I could answer that, and  
4 especially on the advice of my attorney, I  
5 choose not to --

6 MR. COREN: I'm not advising you.  
7 I'm just making a form objection.

8 A I'm not sure I could answer that.

9 Q What is your understanding of the  
10 attorney-client privilege, Mrs. Wengerd?

11 MR. COREN: Objection. Don't  
12 answer.

13 A I'm choosing not to answer that question.

14 Q Did you discuss objections not to answer based  
15 on the attorney-client privilege when you were  
16 preparing for this deposition?

17 MR. COREN: Objection.  
18 Objection. Don't answer.

19 Q How many people in the Williams class suffered  
20 from mesothelioma?

21 A Again, since I'm not an expert on their cases,  
22 I couldn't speak to them.

23 Q You don't know what percentage of the class has  
24 mesothelioma?

25 A No.

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1 Q What about the percentage of the class that  
2 suffered from some other type of cancer?

3 A I can only speak to my mother's case, not to  
4 the other members in the class.

5 Q What condition did your mother have?

6 A Mesothelioma.

7 Q Is that significant in your mind?

8 A Yes.

9 Q Why is it significant in your mind that she had  
10 mesothelioma?

11 A Because it was caused by being exposed to  
12 asbestos.

13 Q Do you think that people who develop  
14 mesothelioma should receive more compensation  
15 than people who developed other types of  
16 injuries from asbestos?

17 MR. COREN: Objection. Don't  
18 answer. We're here not for her mental  
19 impressions or evaluation.

20 A I'm choosing not to answer on the advice of  
21 counsel.

22 MR. FARRELL: What's the basis  
23 for the instruction not to answer that  
24 question?

25 MR. COREN: Work product, mental

1 impression, and if any of it is

2 attorney-client, to that extent.

3 Q Do you believe that your mother was entitled to  
4 greater compensation because she had  
5 mesothelioma as opposed to some other condition  
6 caused by asbestos exposure?

7 A I do believe that because she was exposed to  
8 asbestos, that there -- she is and should have  
9 been compensated.

10 As to a greater amount, I have no idea  
11 what anyone else would get. I'm not an expert  
12 on the subject of who gets what dollar figure,  
13 so I couldn't speak to it.

14 Q I'm not asking about other people. I'm just  
15 trying to focus on your mother's case for now.

16 Do you think that your mother should have  
17 received the same amount of compensation  
18 regardless of the type of disease that she had  
19 developed?

20 MR. COREN: Asked and answered.

21 A I don't know the other -- the extent of the  
22 other diseases. I know that watching her  
23 suffer in such a horrible way should definitely  
24 be compensated.

25 I don't know all of the different

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1 diseases that asbestos exposure causes, nor am  
2 I an expert, medical expert, at all, but I do  
3 believe she should have been compensated for  
4 the absolute anguish that she went through.

5 Q Well, if she had developed lung cancer instead  
6 of mesothelioma, do you think that would have  
7 had an effect on the amount of money that she  
8 had recovered in her case?

9 MR. COREN: Objection. Mental  
10 impression. Don't answer.

11 A I'm choosing not to answer on the advice of my  
12 attorney.

13 Q Do all of the members of the Williams class  
14 live in Ohio?

15 A I don't believe so.

16 Q What other states do they live in?

17 A I don't recall.

18 Q Do you know anything about where they live?

19 A I don't recall.

20 Q Do you know of any other Plaintiffs' firm other  
21 than Mr. Bevan who represented individuals in  
22 litigation against Engelhard or BASF?

23 A No.

24 Q What damages are you seeking in this case?

25 A I'm looking for a judicial decision that

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1 acknowledges BASF's fraud in my mother's case.

2 Q Is that it?

3 A I'm also looking for compensation for the  
4 exposure to asbestos.

5 Q Anything else?

6 A No.

7 Q How much compensation do you believe you're  
8 entitled to because of your mother's exposure  
9 to asbestos --

10 MR. COREN: Objection.

11 Q -- attributable to BASF?

12 MR. COREN: Objection. Don't  
13 answer.

14 A On the advice of my attorney, I'm not  
15 answering.

16 MR. FARRELL: You're instructing  
17 her not to answer the question of how much  
18 damages she is entitled to in this case?

19 MR. COREN: You're asking her for  
20 a valuation of the case. You're not entitled  
21 to that. Move on.

22 Q When you say that you're looking for a judicial  
23 decision acknowledging fraud by BASF, what do  
24 you mean by that?

25 A I would like the Court to find that fraud

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1 was -- did happen on -- from BASF or the  
2 attorneys representing them at the time that  
3 did in fact, unfortunately, hurt my mother's  
4 case.

5 Q And why would you like to see that happen in  
6 the judicial decision?

7 A So that companies like BASF don't do it again.  
8 So that they are held accountable for their  
9 actions.

10 Q Would you take less money in this case in order  
11 to get that judicial decision?

12 MR. COREN: Objection.

13 Privilege. It's her work product. It's a  
14 valuation. And you're not entitled to that  
15 information.

16 MR. FARRELL: You're instructing  
17 her not to answer that question?

18 MR. COREN: That is correct. I  
19 am. Thank you.

20 Q What is more important to you to receive in  
21 this case, financial compensation or the  
22 judicial decision you were describing?

23 MR. COREN: Objection. Same  
24 instruction; same reasons.

25 A I think both have merit, and --

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1 MR. COREN: I instructed you not  
2 to answer.

3 A And I'm choosing not to answer further.

4 Q But you could answer that question but for the  
5 instruction?

6 A I'm not sure.

7 Q You could or you couldn't?

8 MR. COREN: She just said she's  
9 not sure.

10 Q Do you believe that you're entitled to greater  
11 damages than members of the class?

12 A Not necessarily, no.

13 Q Do you believe that somebody who had very brief  
14 exposure to EMTAL talc should receive the same  
15 compensation as somebody who has significant  
16 exposure to the talc?

17 MR. COREN: Objection. Going  
18 into the mental processes, valuation, class --  
19 you know, issues of class distributions that  
20 are not yet before the Court. Don't answer.

21 MR. FARRELL: You're instructing  
22 her not to answer that question?

23 MR. COREN: That's right.

24 Because you're now asking -- invading into her  
25 mental processes, which is her work product and



1 our work product. Move on.

2 Q Do you know who Layn Phillips is?

3 A No. I don't believe so.

4 Q Do you know whether there was a mediation in  
5 the Williams case?

6 MR. COREN: That's a yes or no  
7 answer.

8 A Yes.

9 Q Was there a mediation in the Williams case?

10 MR. COREN: That's a yes or no  
11 answer, ma'am.

12 A Yes.

13 Q When did the mediation occur?

14 MR. COREN: Objection. At this  
15 point in time the -- we're instructing her not  
16 to answer.

17 The mediation, it was supposed to be  
18 privileged, number one, and number two, to the  
19 extent that she knows anything about the  
20 mediation, it's attorney-client communication.

21 We will let you know the fact that she  
22 was aware of it, had knowledge of it, and  
23 that's it. There will be no more -- you could  
24 put your questions on the record, but I'm just  
25 advising you in advance that we're not going

1 into this.)

2 MR. FARRELL: Your position is

3 that when the mediation occurred is privileged?

4 MR. COREN: I just said so,

5 Peter. Repeating the question to me isn't

6 going to change my mind.

7 Q When did you learn that a mediation occurred in

8 the Williams case?

9 MR. COREN: Objection. Don't

10 answer. Attorney --

11 A Per my attorney, I'm choosing not to answer.

12 Q Do you know when you learned that a mediation

13 occurred in this case?

14 A Yes.

15 Q You would be able to answer the question but

16 for the instruction not to answer?

17 A That's correct.

18 Q What was your role in the mediation, if any?

19 MR. COREN: Objection. Don't

20 answer. Attorney-client communication.

21 A I'm choosing not to answer on the advice of

22 counsel.

23 MR. COREN: And work product,

24 too. I apologize.

25 Q Without getting into the substance of the

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1 mediation discussions, can you describe the  
2 process for me?

3 MR. COREN: Objection. Do not  
4 answer.

5 A I'm choosing not to answer on the advice of  
6 counsel.

7 Q Which of your attorneys did you speak to about  
8 the mediation in the Williams case?

9 A Mr. Coren.

10 Q Anyone else?

11 A No.

12 Q Did you ever speak to Chris Placitella about  
13 the mediation in the Williams case?

14 MR. COREN: Objection. She just  
15 answered who she spoke to.

16 Q Just Mr. Coren?

17 A Correct.

18 Q When was the last time you spoke to Mr. Coren  
19 about the mediation in the Williams case?

20 MR. COREN: Don't answer. Next  
21 question.

22 MR. FARRELL: What's the basis  
23 for the instruction not to answer?

24 MR. COREN: Attorney-client  
25 communication, mediation privilege, work

1 product privilege. Next question.

2 Q Is it your understanding that proposals were  
3 exchanged between the parties in the course of  
4 the mediation in the Williams case?

5 MR. COREN: Objection. Once  
6 again, attorney-client privilege, work product  
7 privilege, mediation privilege. Please do not  
8 answer.

9 Q Do you know the answer to that question?

10 A Per my attorney's suggestion not to answer, I'm  
11 choosing not to answer.

12 Q I'm just asking if you know the answer to the  
13 question.

14 A I do know that there was a mediation, and  
15 that's the extent of my knowledge.

16 Q Other than the fact that a mediation occurred,  
17 you don't know anything else about it?

18 MR. COREN: Objection. Don't  
19 answer.

20 A I'm choosing not to answer on the advice of  
21 counsel.

22 Q Did you understand that money had been offered  
23 to settle the Williams case?

24 MR. COREN: Objection. Same  
25 instruction.

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1 A On the advice of counsel, I'm choosing not to  
2 answer.

3 Q Do you know the answer to that question?

4 A Yes.

5 Q Your attorneys spoke to you about whether there  
6 was money offered to settle the Williams case?

7 MR. COREN: Objection. Don't  
8 answer.

9 A Again, per advice of counsel, I'm choosing not  
10 to answer.

11 Q I'm not asking you what they told you, I'm just  
12 asking --

13 MR. COREN: Yes. You are asking  
14 what we told her.

15 MR. FARRELL: Excuse me. I'm  
16 not.

17 Q Was the subject of the amount of money that had  
18 been offered to settle this case discussed with  
19 you?

20 MR. COREN: Objection.

21 Privilege. Attorney-client communication.

22 A That would be attorney-client communication.

23 Q Do you know the answer to that question?

24 MR. COREN: That's a yes or no  
25 answer, ma'am.

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1 A No. I do not know.

2 Q You don't know whether the amounts of money  
3 that had been discussed during the mediation  
4 process was communicated to you?

5 MR. COREN: Objection. She just  
6 told you. It's attorney-client privilege.

7 A It's attorney-client privilege.

8 Q I'm asking whether you know the answer to that  
9 question.

10 A Yes. I do know.

11 MR. COREN: That's it.

12 Q Did you decide to end the mediation discussions  
13 in this case?

14 MR. COREN: Objection. Do not  
15 answer.

16 A Per my attorney's suggestion not to answer, I'm  
17 choosing not to answer.

18 Q Did you discuss the mediation in this case with  
19 anyone other than your attorneys?

20 A No.

21 Q Was there any meeting with the class  
22 representatives in this case to discuss  
23 settlement?

24 MR. COREN: Objection. Don't  
25 answer. Move on.

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1 A I'm choosing not to answer on the advice of  
2 counsel.

3 Q I'm just asking whether a meeting occurred,  
4 Mrs. Wengerd.

5 MR. COREN: We understood.

6 Q Do you know the answer to the question?

7 A I previously answered that I have not met the  
8 other members, so I couldn't have had a meeting  
9 with them.

10 Q When you spoke about the mediation with  
11 Mr. Coren, who else was involved in that  
12 conversation? Just the two of you?

13 A That's correct.

14 Q Was it a telephone call?

15 MR. COREN: Objection. No need  
16 to understand how or the manner or mechanism of  
17 the communication, just that there was. We've  
18 answered your question. Privilege. Move on.

19 MR. FARRELL: You're asserting a  
20 privilege objection to whether Mrs. Wengerd  
21 communicated with you by phone or another  
22 means?

23 MR. COREN: Yes. Move on.

24 Q Have you spoken with any other person regarding  
25 the damages that you're seeking in this case

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1 other than counsel?

2 A No.

3 Q Have you spoken to any other person other than  
4 counsel about the mediation that occurred in  
5 this case?

6 A No.

7 Q Do you have any documents related to the  
8 mediation that occurred in this case?

9 A No.

10 Q Did you take any notes of your conversation  
11 with Mr. Coren regarding the mediation?

12 A No.

13 Q Did you have an understanding that money had  
14 been offered to settle the case?

15 MR. COREN: Objection. You've  
16 asked it twice or three times now already,  
17 Peter. Let's move on. We're just wasting  
18 time. I'm instructing the witness not to  
19 answer. Now it's badgering.

20 Q Do you know the answer?

21 A I'm sorry?

22 Q Do you know the answer to that question?

23 A You have to repeat the question. I'm sorry. I  
24 was listening to Mr. Coren.

25 Q Do you know the answer to the question, do you



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1 have an understanding of whether money had been

2 offered to settle the Williams case?

3 MR. COREN: Objection. I

4 instruct you not to answer.

5 A Per advice of counsel, I'm choosing not to

6 answer.

7 MR. FARRELL: Let's take a break.

8 THE VIDEOGRAPHER: Off the

9 record. The time is 11:01.

10 (Recess taken.)

11 THE VIDEOGRAPHER: We're back on

12 the record. The time is 11:17.

13 BY MR. FARRELL:

14 Q Mrs. Wengerd, are you aware that a deposition  
15 occurred in this case yesterday?

16 A Yes.

17 Q Who was deposed yesterday?

18 A I'm not sure.

19 Q How did you know that somebody was deposed  
20 yesterday?

21 A Because my attorney said he would be in town  
22 for that reason for two days.

23 Q Which attorney was that?

24 A Mr. Coren.

25 Q Did you speak to Mr. Coren last night?

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1 A Yesterday afternoon, yes.

2 Q What time yesterday afternoon?

3 A I don't recall.

4 Q 4 o'clock?

5 A I don't remember. I'm sorry.

6 Q It was after the deposition yesterday?

7 A I assume.

8 Q Did Mr. Coren address the subject matter of  
9 yesterday's deposition with you?

10 MR. COREN: Objection. Do not --  
11 attorney-client privilege.

12 A Per the advice of counsel, I'm choosing not to  
13 answer.

14 Q I'm not asking what he said or what you said,  
15 just did the subject matter of the deposition  
16 yesterday come up in your conversation with  
17 Mr. Coren yesterday afternoon?

18 MR. COREN: Objection. I  
19 instruct you not to answer. Work product,  
20 attorney-client privilege.

21 A I'm choosing not to answer on the advice of  
22 counsel.

23 Q Would you be able to answer that question but  
24 for the instruction?

25 A Yes.

1 Q How long was your conversation with Mr. Coren  
2 yesterday afternoon?

3 MR. COREN: Objection. Don't  
4 answer. Attorney-client privilege, work  
5 product.

6 A Per advice of counsel, I'm choosing not to  
7 answer.

8 Q Would you be able to answer that question but  
9 for the instruction not to answer?

10 A No.

11 Q Did you speak in person or by telephone?

12 A Telephone.

13 Q He called you?

14 A Yes.

15 Q Was anybody else involved in this discussion?

16 A Jared was also on the line.

17 Q Anyone other than Jared Placitella and Michael  
18 Coren?

19 A No.

20 Q Did you speak to anybody else yesterday  
21 afternoon or last night about your deposition  
22 today?

23 A No.

24 Q Did they call you at home or on the cell phone?

25 MR. COREN: Objection. Don't

1 answer.

2 A On the advice of counsel, I'm choosing not to  
3 answer.

4 MR. FARRELL: What's the basis  
5 for the instruction not to answer?

6 MR. COREN: What basis?  
7 Relevance, attorney-client privilege, work  
8 product.

9 Peter, can we get into the subject matter  
10 of the case already?

11 MR. FARRELL: Mr. Coren, we spent  
12 90 minutes this morning covering the same  
13 ground that we covered with a witness yesterday  
14 where the witness responded to the questions.  
15 The same material we've covered. That witness  
16 gave a whole variety of answers and information  
17 in response to those questions.

18 The deposition ended yesterday. You  
19 called this witness. You spoke to her on the  
20 telephone about the deposition yesterday.

21 We've now come into the deposition today,  
22 and by our count, we have approximately 50,  
23 maybe 60 instructions not to answer just about  
24 every question we've asked, including the same  
25 questions that were asked yesterday, on grounds

1 as frivolous as to whether a communication  
2 occurred by telephone or through other means,  
3 about whether she had been told to preserve  
4 documents, on whether she provided documents to  
5 you to produce them to us in this case.

6           There have got to be no fewer than three  
7 dozen instructions not to answer that have no  
8 basis at all, including work product objections  
9 as to her views and information about the class  
10 in this case, the damages in this case and  
11 other subjects.

12           Now, it seems awfully funny to me that  
13 the witness yesterday answered all of those  
14 questions with no objections from you, and  
15 today I'm hearing six dozen different  
16 instructions not to answer the same subject.

17           So I happen to view the questions I'm  
18 asking right now related to the length of the  
19 conversation you had, when it occurred, how it  
20 occurred, where it occurred and the subject of  
21 that call to be particularly relevant to the  
22 deposition that's occurring today.

23           We're going to raise all of these issues  
24 with the Court, with Judge Dickson. We're  
25 going to come back, we're going to get answers

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1 to all of these questions, and we're going to  
2 have a motion for fees and costs, because all  
3 of the objections you've asserted so far have  
4 been baseless and improper. You know that  
5 they're baseless and improper. You just don't  
6 want to hear the answers that are going to come  
7 out today. So that's why I'm asking these  
8 questions, and I'm going to continue to ask  
9 them.

10 Q Did he call you --

11 MR. COREN: Objection. First of  
12 all, one, I disagree with the content, and I'm  
13 not going to go over it one by one, but let me  
14 just say I dispute and disagree with you.

15 Two, we maintain our objections are based  
16 upon the facts and based upon the law.

17 You can proceed.

18 MR. GEYERMAN: I just want to --  
19 for the Cahill Defendants, I join in the  
20 comments by BASF's counsel. This is Federal  
21 Court. There is a very limited number of bases  
22 to instruct the witness not to answer, and we  
23 too will be moving for fees and costs when we  
24 have to reconvene for another deposition.

25 Q Did Mr. Coren call you yesterday on your home

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1 phone or on your cell phone?

2 MR. COREN: Objection. Don't

3 answer.

4 A Per advice of counsel, I'm choosing not to

5 answer.

6 Q Do you know the answer to that question?

7 A Yes.

8 Q So you told me earlier in the deposition that  
9 you prepared for the deposition on Tuesday and  
10 there was a meeting, what you thought to be  
11 several weeks ago, but you didn't mention this  
12 call yesterday afternoon. Do you recall that?

13 A That's correct.

14 Q Have you had any other discussions you haven't  
15 yet told me about in the deposition with your  
16 counsel related to your preparation for this  
17 deposition?

18 A Not that I recall.

19 Q Have you spoken to Mr. Bevan since yesterday  
20 afternoon?

21 A No.

22 Q Have you spoken to anybody at the Bevan firm  
23 since yesterday afternoon?

24 A No.

25 - - - - -

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1 (Defendants' Exhibit 1 was marked.)

2 - - - - -

3 Q Mrs. Wengerd, I'm showing you what we've marked  
4 yesterday as Defense Exhibit Number 1, and  
5 we'll make it Exhibit Number 1 to your  
6 deposition today.

7 MR. FARRELL: And for the record,  
8 this is the Seconded Amended Class Action  
9 Complaint in the Williams case.

10 Q Do you see that?

11 A Yes.

12 Q Have you seen this document before?

13 A Yes.

14 Q When did you see it?

15 A It was provided to me quite a few weeks ago. I  
16 don't recall the exact date that I received it.

17 Q Did you see it before it was filed?

18 A No. I don't think so.

19 Q So the first time the Second Amended Complaint  
20 in the Williams case was provided to you was  
21 after it was filed?

22 A I believe that's correct.

23 Q Who provided it to you?

24 A I received it in the mail from Mr. Coren.

25 Q From Mr. Coren.



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1 Can you turn to paragraph 31 in the  
2 complaint. It's on page 28.

3 Before I get to that, did your mother  
4 keep a file of documents related to her  
5 exposure to asbestos?

6 A I believe anything that she would have kept  
7 would have gone right in to become my file, but  
8 it was -- anything that she had of relevance  
9 was turned over to Mr. Bevan, and anything that  
10 she had that came subsequently to me would have  
11 been from Mr. Bevan, just letters or documents  
12 that were produced from his office.

13 Q So let's take that apart a bit. When you say  
14 that your mother had documents that would have  
15 been provided to Mr. Bevan, are you talking  
16 about back when her case was first filed?

17 A Correct.

18 Q What sort of documents did she provide to  
19 Mr. Bevan?

20 A I'm not sure without checking with Mr. Bevan  
21 what the entirety was that was provided to him.

22 Q So if we wanted to know which documents your  
23 mother provided to Mr. Bevan, we would have to  
24 ask him?

25 A Correct.

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1 Q What sort of file did your mother keep --  
2 withdrawn.

3 What sort of documents did your mother  
4 keep related to her asbestos case?

5 A It would have been communications between her  
6 and her attorney. She passed away so quickly  
7 that I don't think there was anything even  
8 filed as far as any complaint for any case.

9 So anything that would have been in that  
10 file would have been just communication back  
11 and forth.

12 Q What happened to your mother's file after she  
13 passed away?

14 A It became my file, which I just continued to  
15 add to.

16 Q So all of the documents that your mother had  
17 related to her case are now in your possession?

18 A Correct.

19 Q And those are kept at your house?

20 A Correct.

21 Q Any other location?

22 A No.

23 Q If you look at paragraph 31 of the complaint,  
24 do you see it says, "On or about May 10th,  
25 2008, Plaintiff Wengerd's decedent" -- that's

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1           you, and decedent is your mother, correct?

2       A     Correct.

3       Q     "During her life commenced an asbestos injury  
4           lawsuit in the Court of Common Pleas, Cuyahoga  
5           County, Ohio against BASF, naming same as a  
6           Defendant in accordance with the accepted  
7           asbestos practice in that area in view of  
8           settlement programs that potentially  
9           responsible product manufacturers or suppliers  
10          were negotiating or had developed."

11               Do you see that?

12      A     Yes.

13      Q     Did Mr. Bevan file the case that's referenced  
14           in paragraph 31?

15      A     I don't recall if he did or Mr. Coren did.

16      Q     You don't know which attorney filed the case  
17           that's referenced in paragraph 31 of the  
18           Williams case?

19      A     That would have been Mr. Bevan. I'm sorry.  
20           That's correct.

21      Q     What does the phrase "in accordance with the  
22           accepted asbestos practice in that area" mean?

23      A     That would be for my attorneys to have  
24           interpreted because I'm not familiar enough  
25           with asbestos practices.

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1 Q So if I wanted to know what the accepted  
2 asbestos practice in Cuyahoga County was, I  
3 would need to talk to Mr. Bevan?

4 A Yes.

5 Q What are the settlement programs in Cuyahoga  
6 County?

7 A I'm afraid I would have to confer with my  
8 attorney for an answer to that.

9 Q Do you have any personal knowledge related to  
10 the settlement programs in Cuyahoga County?

11 A No.

12 Q If I wanted to know about the settlement  
13 programs in Cuyahoga County for asbestos cases,  
14 I would need to talk to Mr. Bevan?

15 A Correct.

16 Q What does it mean when the complaint says  
17 "potentially responsible product manufacturers  
18 or suppliers"?

19 A I think it means exactly what it says. It's  
20 potential responsibility. So I think putting  
21 this -- filing this specific motion was an  
22 allegation of responsibility for asbestos  
23 within the products.

24 Q And so "potentially responsible" means some of  
25 the Defendants who were sued might not actually

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1 have been responsible for the injury alleged in  
2 the complaint that was filed?

3 MR. COREN: Objection to form.  
4 You can answer.

5 A That would be for my attorney -- that would  
6 have been up to my attorney to understand and  
7 to advise me of that.

8 Q So the person who determined whether a  
9 Defendant was or wasn't responsible and should  
10 be sued in the case was Mr. Bevan?

11 A Correct.

12 Q How many companies did Mr. Bevan sue in your  
13 mother's original asbestos case?

14 A I don't know without conferring with my  
15 attorney.

16 Q Does the number 90 sound right to you?

17 A I --

18 MR. COREN: Objection as to form.  
19 You can respond.

20 A I don't know.

21 - - - - -

22 (Defendants' Exhibit 39 was marked.)

23 - - - - -

24 Q Mrs. Wengerd, I'm showing you what we've marked  
25 for identification as Defense Exhibit 39.

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1 Have you seen this document before?

2 A I may have. I don't recall.

3 Q This is the complaint that your mother  
4 originally filed in 2008, correct?

5 A Yes.

6 Q Which Mr. Bevan filed on her behalf?

7 A Correct.

8 Q And there are approximately 90 Defendants  
9 listed in the case caption of the case?

10 MR. COREN: Objection. You can  
11 respond.

12 A I haven't counted them, but that's possible.

13 Q And Mr. Bevan decided which companies to sue as  
14 Defendants in the case, right?

15 A That's correct.

16 Q Do you know what the basis for the claims were  
17 against any of these Defendants?

18 A Without conferring with my attorney, I couldn't  
19 say.

20 Q You don't have any personal knowledge of the  
21 basis for the claims against any of the  
22 Defendants in the case?

23 A No. That would have been up to my attorneys'  
24 discretion.

25 Q Do you know any of the products that --

1           withdrawn.

2                   Do you know the list of products that  
3           were at issue in your mother's original  
4           asbestos case?

5    A    I know that there were several, all containing  
6           asbestos, but no, I could not list them all.

7    Q    And what you know about that comes either from  
8           your mother or Mr. Bevan?

9    A    Correct.

10   Q    So if I wanted more information about that, I  
11           would need to talk to Mr. Bevan?

12   A    Correct.

13   Q    Do you know what the resolution of your  
14           mother's claim against each of these companies  
15           was?

16   A    Not without conferring with my attorney.

17   Q    If I wanted to know the answer to that  
18           question, I would talk to Mr. Bevan?

19   A    Correct.

20   Q    Anyone else?

21   A    I don't know what other members of counsel that  
22           represent me would know.

23   Q    To your knowledge, the only person who would  
24           have that information is Tom Bevan?

25   A    Again, I'm not sure what other members of my

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1 counsel team may have that information, but  
2 definitely Mr. Bevan would.

3 Q How many of the Defendants in your mother's  
4 original asbestos case settled their claims?

5 A I don't know without conferring with my  
6 attorney.

7 Q More than five?

8 A I don't know without conferring with my  
9 attorney.

10 Q At least one?

11 A I believe so, yes.

12 Q And you've -- withdrawn.

13 You're aware that at least some  
14 settlement money has been paid in connection  
15 with your mother's asbestos case, correct?

16 A Correct.

17 Q How much money?

18 MR. COREN: Objection as to the  
19 amount.

20 I'll instruct you not to witness (sic) on  
21 the basis that the issue of settlement with  
22 other Defendants is not pertinent and not a  
23 part of the case. So it's a matter before and  
24 pending before Judge Dickson. So until that  
25 issue is resolved, I'm instructing her not to



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1 respond to the amount of the settlement with  
2 anybody.

3 Q The amount of money that has been paid in  
4 settlement in connection with your mother's  
5 original case is something that could be  
6 determined, correct?

7 A It could be with the aid of counsel.

8 Q There are records that discuss how much money  
9 your mother or you received in connection with  
10 your mother's asbestos case?

11 A Yes.

12 Q Have you been receiving settlement money since  
13 your mother passed away?

14 A I have received some.

15 Q When was the last time you received a  
16 settlement payment in connection with your  
17 mother's asbestos exposure?

18 A I don't recall.

19 Q Have you received more than \$250,000 in  
20 settlement?

21 MR. COREN: Objection. Same  
22 instruction. Do not answer.

23 Issues regarding settlement with other  
24 parties is not a matter within this scope of  
25 Discovery in this case per our motions in front

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1 of Judge -- per our motions and position in  
2 front of Judge Dickson.

3 MR. FARRELL: You're instructing  
4 her not to answer?

5 MR. COREN: Yes, as to the amount  
6 as you're posing the question.

7 Q Was your mother's asbestos case filed before or  
8 after she passed away?

9 A Well, this was filed before. She died July  
10 21st, 2008, and it looks like this was filed  
11 April 11th, 2008.

12 Q So the case was filed on behalf of your mother,  
13 correct?

14 A Uh-huh.

15 Q And then she sat for a deposition in the case?

16 A Yes.

17 Q Do you remember how many days of deposition  
18 testimony she gave?

19 A I think it was two or three.

20 Q Were you present for all of those days?

21 A Yes.

22 Q Any time your mother was deposed, you were  
23 there?

24 A Yes.

25 Q Now, do you recall after your mother --

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1 withdrawn.

2 While your mother's case was pending, she  
3 was receiving medical treatment, correct?

4      A      Yes.

5 Q And then she passed away while the case was  
6 pending?

7 A Yes. I believe so.

8 Q And then while she was receiving medical  
9 treatment and after she passed away, doctors  
10 were looking at what conditions she had,  
11 correct?

12      A      Yes.

13 Q At least one of the doctors who was consulted  
14 in connection with your mother's case thought  
15 she didn't have mesothelioma, correct?

16 MR. COREN: Objection. You can  
17 answer if you know the answer.

18 A I don't recall.

19                -      -      -      -      -

20 (Defendants' Exhibit 40 was marked.)

21                -      -      -      -      -

22 Q Mrs. Wengerd, I'm showing you what we've marked  
23 for identification as Defense Exhibit 40. This  
24 is a document that the Plaintiffs produced to  
25 us in this case bearing Bates stamp PWMS-2393.

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1 It's dated October 10th, 2008.

2 Have you seen this before?

3 A Yes.

4 Q When did you see it?

5 A It would have been, I don't know, sometime in  
6 the months that followed my mother's death.

7 Q This is a medical record from Akron General  
8 Medical Center, correct?

9 A Correct.

10 Q Is that where your mother was receiving care?

11 A Yes.

12 Q Who is Dr. Anne Caveny?

13 A The pathologist that this report is produced  
14 from.

15 Q She was one of the doctors who was consulted in  
16 connection with your mother's case?

17 A I don't recall.

18 Q This is a medical record related to your  
19 mother's condition, correct?

20 A Yes. She is --

21 Q And the document says, "The patient, a  
22 53-year-old woman, was found to have numerous  
23 pleural-based masses of the left hemithorax on  
24 a CT scan of the chest performed January 28th,  
25 2008."

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1 Do you see that?

2 A Yes.

3 Q Is that approximately when your mother first  
4 began to notice symptoms of her condition?

5 A She began to notice symptoms of her condition  
6 around Christmas and therefore went --

7 Q Went to the doctor?

8 A Uh-huh.

9 Q Now, halfway down the paragraph, this is under  
10 the section called Clinical Summary, do you see  
11 the line "The immunohistochemical studies and  
12 histologic features?"

13 Do you see that sentence that says that?  
14 It's around two-thirds of the way down.

15 A I'm sorry. I don't see it.

16 Q (Indicating.)

17 A Oh, yes.

18 Q Got it?

19 A Thank you.

20 Q The doctor says, "The immunohistochemical  
21 studies and histologic features of the tumor  
22 were non-specific and the case was forwarded to  
23 the Cleveland Clinic for outside expert  
24 consultation."

25 Do you see that?

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1 A Yes.

2 Q Do you know the Cleveland Clinic?

3 A I'm familiar.

4 Q It's a medical center?

5 A Yes.

6 Q It's a very reputable one?

7 A Yes.

8 Q One of the best hospitals in the world?

9 MR. COREN: Objection to form.

10 A I don't know how they rank.

11 Q You consider it to be a reputable medical  
12 center?

13 A Yes.

14 Q Then you see later down in the paragraph it  
15 says, "The Cleveland Clinic diagnosis of the  
16 core biopsy of lung was "malignant sarcomatoid  
17 and epithelioid neoplasm". Despite the  
18 extensive workup, a more specific diagnosis  
19 could not be made."

20 Do you see that?

21 A Yes.

22 Q So the medical record is saying they couldn't  
23 be more specific than saying malignant  
24 sarcomatoid and epithelioid neoplasm?

25 MR. COREN: So you're asking her

1 if this is what the document says, because  
2 she's not a medical expert? You haven't  
3 qualified her as that, so I don't understand  
4 the point of asking her about --

5 MR. FARRELL: I don't need a  
6 speaking objection. Do you have a form or a  
7 foundation objection?

8 MR. COREN: I just gave you the  
9 form. Objection, Peter.

10 MR. FARRELL: Then please say  
11 form. I don't need this speech, Michael.

12 MR. COREN: I have a right to  
13 give you the form, too. Go ahead.

14 Q The medical record says that a more specific  
15 diagnosis of her condition could not be made,  
16 correct?

17 A That's correct.

18 Q And then you see the next section of the  
19 document, Final Summary?

20 A Yes.

21 Q And that sections says, "Sections from the  
22 tumor nodules of the left parietal and visceral  
23 pleura, chest wall and subpleural parenchyma  
24 were somewhat obscured by necrosis and  
25 postmortem autolysis. The histologic features

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1 of the tumor, however, are not consistent with  
2 mesothelioma."

3 Do you see that?

4 A Yes.

5 Q So this medical report is saying that the  
6 histologic features of the tumor were not  
7 consistent with mesothelioma, correct?

8 MR. COREN: So you're asking her  
9 to read it and agree with you that that's what  
10 it says?

11 Q That's what the document says, yes?

12 A That is what the document says.

13 Q Were you aware that at least one medical record  
14 had concluded that your mother's condition was  
15 not consistent with mesothelioma?

16 MR. COREN: Objection as to form.  
17 You may answer.

18 A I've seen it before, so I have read it.

19 Q So you were aware of this?

20 A Yes.

21 Q And then further down in the paragraph towards  
22 the end of Final Summary, it says, "The  
23 possibility of a metaplastic or sarcomatoid  
24 carcinoma, including a giant cell carcinoma of  
25 lung, also cannot be entirely excluded.



1 Despite the extensive battery of immunostains  
2 and electron microscopy, it is not possible to  
3 arrive at a definite diagnosis."

4 Do you see that?

5 A I do see it.

6 Q So you were aware in 2008 that at least one  
7 doctor had thought your mother's condition was  
8 not consistent with mesothelioma, correct?

9 MR. COREN: Objection to form.

10 You can answer.

11 A Per the document, that was their opinion.

12 Q And you're also aware that in 2008 at least one  
13 doctor had thought it wasn't possible to arrive  
14 at a definite diagnosis of mesothelioma, true?

15 MR. COREN: Objection as to form.

16 You can answer.

17 A Yes. I see that is their opinion in this  
18 document.

19 Q Now, as part of your mother's litigation, do  
20 you know whether she disclosed to the  
21 Defendants in those cases that at least one  
22 doctor thought she didn't have mesothelioma?

23 MR. COREN: Objection as to form.

24 A I wouldn't be aware. I'm sorry.

25 Q Who would know that?

1 A If there was any communication with any  
2 Defendants, Mr. Bevan would have that  
3 information.

4 Q I would need to talk to Mr. Bevan?

5 A Yes.

6 Q Now, your mother also submitted claims on  
7 bankruptcy trusts, correct?

8 A Yes.

9 Q And you've submitted claims on bankruptcy  
10 trusts on your mother's behalf?

11 A Yes.

12 Q How many bankruptcy trust claims have you  
13 submitted claims against?

14 A I don't know without conferring with my  
15 attorney.

16 Q More than five?

17 A I don't know. Possibly.

18 Q More than ten?

19 A I don't know without conferring with my  
20 attorney.

21 Q Do you recall when you were filling out the  
22 bankruptcy trust forms, they would ask you to  
23 check a box as to the injury that your mother  
24 had developed?

25 A I don't recall. They were not all uniform, so

1 I couldn't say for certain.

2 Q Do you remember if any of the bankruptcy trust  
3 forms asked you to identify the conditions she  
4 developed?

5 A I don't believe that was something that I  
6 particularly filled out. That would have been  
7 filled out by my attorney.

8 Q So all of the bankruptcy trust forms that you  
9 completed, Mr. Bevan filled out on your behalf?

10 A Yes.

11 Q Did you fill out any of them personally?

12 A I don't believe so. There were portions that I  
13 was to sign or have notarized or witnessed, but  
14 I did not fill them out myself.

15 Q Did you review them to confirm they were  
16 accurate?

17 A I did look them over.

18 Q Yes?

19 A Yes. I did review them.

20 Q To confirm they were accurate?

21 A Some of them are quite written in legalese, so  
22 it would have been above my knowledge how to  
23 interpret some of them. So I conferred to my  
24 attorney's discretion and his information  
25 provided to me.

1 Q On all of the bankruptcy trust forms that you  
2 submitted, did you indicate that your mother  
3 had mesothelioma?

4 A Again, I didn't fill them out, so I didn't  
5 indicate anything on the form itself. That  
6 would have been filled out by my attorney.

7 Q Did any of the bankruptcy trust forms that you  
8 reviewed to confirm their accuracy indicate  
9 that your mother had mesothelioma?

10 A I don't recall.

11 Q Would seeing the forms refresh your  
12 recollection?

13 A I could read the form to you and confirm my  
14 signature on it, but other than that, I can't  
15 recall what was on all of the forms since they  
16 were not necessarily uniform.

17 Q I would need to talk to Mr. Bevan?

18 A Correct.

19 Q Who has the actual forms that were submitted to  
20 the trusts?

21 A Mr. Bevan would have a copy of anything that  
22 would have been submitted.

23 Q Do you know whether all of Mr. Bevan's files  
24 related to the bankruptcy trust claims that  
25 were submitted on behalf of your mother were

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1 produced to the Defendants in this case?

2 MR. COREN: Objection.

3 Privileged. Work product.

4 A On advice of counsel, I'm choosing not to

5 answer.

6 Q Do you know the answer to the question?

7 A No.

8 Q Have you authorized Mr. Bevan to produce his

9 documents to Defendants in this case?

10 MR. COREN: Objection. Instruct

11 her not to answer. Attorney-client.

12 A On advice of counsel, I'm choosing not to

13 answer.

14 Q Has the subject matter of whether Mr. Bevan

15 should produce his files to Defendants in this

16 case been discussed with you?

17 MR. COREN: Objection. Instruct

18 her not to answer. Attorney-client privilege,

19 work product privilege.

20 A On advice of counsel, I'm choosing not to

21 answer.

22 Q Do you know the answer to the question?

23 A I believe so.

24 - - - - -

25 (Defendants' Exhibit 41 was marked.)

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1 - - - - -

2 Q Mrs. Wengerd, this is a document we've marked  
3 for identification as Defense Exhibit Number  
4 41.

5 Have you seen this document before?

6 A I don't recall.

7 Q And I'll state for the record that the document  
8 has the Bates stamp PWMS-0002616 and also  
9 2616\_0002.

10 Do you see that on the document?

11 A Yes.

12 Q So on the page you're looking at now, the page  
13 that has underscore 2, this is a document from  
14 the Celotex Asbestos Settlement Trust.

15 Do you see that?

16 A I do.

17 Q And it's dated April 28th, 2009, right?

18 A Correct.

19 Q So after the medical record we were just  
20 looking at a few minutes ago?

21 A That's correct.

22 Q And it's addressed to Bevan & Associates, yes?

23 A Correct.

24 Q That's where Mr. Bevan works?

25 A Yes.

1 Q And about halfway down on the page it says

2 Injured Person Name: Jennifer Graham.

3 That's your mother?

4 A Correct.

5 Q And then it says Confirmed Injury:

6 Mesothelioma.

7 Do you see that?

8 A Correct.

9 Q Do you know whether Mr. Bevan informed the  
10 Celotex Asbestos Settlement Trust that at least  
11 one doctor thought your mother might not have  
12 mesothelioma?

13 MR. COREN: Objection.

14 A I do not know.

15 MR. FARRELL: Basis?

16 MR. COREN: I have an objection  
17 to form, Peter. Go ahead. You didn't hear me  
18 say --

19 A I don't know.

20 Q Did you inform the Celotext Asbestos Settlement  
21 Trust that at least one doctor thought your  
22 mother might not have mesothelioma?

23 A No. I expected my attorney to represent me.

24 So I would not have contacted anyone directly.

25 Q You relied on Mr. Bevan?

1 A Correct.

2 Q Do you think that the Celotext Asbestos

3 Settlement Trust would have wanted to know that

4 your mother might not have had mesothelioma?

5 MR. COREN: Objection. Instruct

6 her not to answer. You're asking her to

7 speculate into the mind of another third party.

8 It's beyond the scope of Discovery.

9 Also, number two, you're invading her

10 work product and her mental processes. I

11 instruct her not to answer.

12 MR. FARRELL: What's the basis

13 for the instruction not to answer?

14 MR. COREN: I just said it,

15 Peter.

16 MR. FARRELL: Is it work product

17 or relevance?

18 MR. COREN: Yes.

19 MR. GEYERMAN: Attorney work

20 product or layperson work product?

21 MR. COREN: A, she has a work

22 product privilege; two, Mr. Bevan has a work

23 product privilege; two -- three, there is an

24 attorney-client privilege aspect, and four,

25 relevance because it's calling for her to



1 speculate into the mind of a third party.

2 We're here to get facts, not

3 speculations.

4 MR. GEYERMAN: We're here to get

5 answers to questions, but you're blocking them

6 repeatedly.

7 MR. COREN: I'm not blocking

8 them. I'm asserting.

9 MR. GEYERMAN: This is a

10 deposition in Federal Court.

11 Q If someone had asked you to pay compensation

12 because somebody had mesothelioma, would you

13 have wanted to know that at least one of their

14 doctors thought that they didn't have

15 mesothelioma?

16 MR. COREN: Objection. Same

17 instruction.

18 MR. FARRELL: You're instructing

19 her not to answer that question?

20 A It's a hypothetical question.

21 Q Are you answering it or not?

22 A On advice of counsel, I'm choosing not to

23 answer.

24 Q Do you think in fairness that the contrary

25 diagnosis your mother received regarding her

1 condition should have been provided to the  
2 Celotex Asbestos Settlement Trust before they  
3 paid compensation for your mother's injury?

4 MR. COREN: Objection as to form.  
5 Instruct her not to answer. Once again, same  
6 basis, privilege.

7 A On advice of counsel, I'm choosing not to  
8 answer.

9 Q At any time after you received this money from  
10 the Celotex Asbestos Settlement Trust, did you  
11 tell them about the contrary diagnosis that  
12 your mother had received indicating that she  
13 might not have mesothelioma?

14 A As previously answered, I was represented by  
15 counsel and would have expected them to  
16 interact with anyone on my behalf. I would not  
17 have contacted this person on my own.

18 Q Well, would you have expected Mr. Bevan to  
19 provide the medical record to the Celotex  
20 Asbestos Settlement Trust?

21 MR. COREN: Objection. Don't  
22 answer. Privilege.

23 A Per advice of counsel, I'm choosing not to  
24 answer.

25 Q Do you think in fairness that the medical

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1 record indicating that your mother may not have  
2 had mesothelioma should have been provided to  
3 the bankruptcy trust who was paying you  
4 compensation for her asbestos injury?

5 MR. COREN: Same objection. Same  
6 instruction.

7 A I'm choosing not to answer on advice of  
8 counsel.

9 Q Do you know whether the October 2008 medical  
10 record that we've marked as Defense Exhibit 40  
11 has been provided to any of the bankruptcy  
12 trusts that have paid compensation because of  
13 your mother's exposure to asbestos?

14 A That would be something that I would have to  
15 confer with my attorney. I would have expected  
16 him and do expect him to act upon my behalf.  
17 So I would not know if he sent that or not.

18 Q Mr. Bevan would know the answer to that  
19 question?

20 A Correct.

21 Q When you say you expect him to act on your  
22 behalf, does he consult with you about  
23 submitting these forms?

24 MR. COREN: Objection.

25 Attorney-client privilege, work product.

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1 A Per advice of counsel, I choose not to answer.

2 Q Do you know the answer to that question?

3 A Yes.

4 Q You could answer it but for the instruction not  
5 to answer?

6 A Correct.

7 Q Is it your understanding, Mrs. Wengerd, that  
8 the amount of compensation that these  
9 bankruptcy trusts pay is in part determined by  
10 the injury that the person has developed?

11 A I don't know enough about how they work to say  
12 yes or no to that.

13 Q Nobody has explained to you the condition that  
14 a person has developed is a part of how these  
15 trusts determine how much money to pay in  
16 settlement?

17 MR. COREN: Mrs. Wengerd, I  
18 instruct you not to answer to the extent your  
19 answer relies upon the advice of counsel. If  
20 you could answer the question without  
21 incorporating or revealing advice of counsel,  
22 please respond to Mr. Farrell's question.

23 A I have no personal information to add to the  
24 question -- to the answer.

25 Q If your mother didn't -- withdrawn.

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1 If you had indicated that your mother had  
2 a condition other than mesothelioma on these  
3 bankruptcy trust forms, do you think the trust  
4 would have paid you more or less money?

5 MR. COREN: Objection.

6 A I have no information. I don't know.

7 Q Would Mr. Bevan know?

8 A Yes.

9 Q Were you involved in the conversations between  
10 your mother and Mr. Bevan regarding her  
11 decision to file an asbestos injury lawsuit?

12 A I don't know that I was present for all of  
13 their conversations.

14 Q Do you know whether Mr. Bevan discussed with  
15 you or your mother which companies he was going  
16 to file a lawsuit against on her behalf?

17 MR. COREN: Objection.

18 Attorney-client privilege, work product  
19 privilege. Do not answer.

20 A It would be attorney-client privilege of what  
21 we discussed.

22 Q Do you know the answer to that question?

23 A I'm not sure I recall.

24 Q Can you turn to paragraph 232 in Williams  
25 Second Amended Complaint.

1 A Okay.

2 Q You're there?

3 A Yes.

4 Q Paragraph 232 of the Williams Second Amended  
5 Complaint begins, "On or about November 12th,  
6 2008 BASF's Northern Ohio area local defense  
7 attorney, Jennifer A. Riester, Esquire, mailed  
8 a letter with enclosures to the Bevan law firm  
9 requesting voluntary dismissal of two of the  
10 firm's then pending asbestos injury matters it  
11 had filed in Cuyahoga County, Ohio, Court of  
12 Common Pleas," and then it references your  
13 mother's case as one of the two cases, correct?

14 A Correct.

15 Q Do you know who Jennifer Riester is?

16 A I believe she was the attorney representing  
17 BASF.

18 Q And where did you learn that fact?

19 A I believe she was discussed --

20 MR. COREN: If it's from  
21 attorney-client, to the extent your answer --

22 A On 233, where it represents the Engelhard  
23 Corporation in regard to a continuation on of  
24 this. It may have been discussed with counsel.  
25 I don't recall.

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1 Q Do you have any personal knowledge of Jennifer  
2 Riester's role in your mother's asbestos case?

3 A Other than what's quoted in this document, no.

4 Q So the only source of information that you have  
5 about Jennifer Riester's role in your mother's  
6 asbestos case is the complaint itself?

7 A Correct.

8 Q Have you ever seen the November 12th, 2008  
9 letter that is referenced in paragraph 232 of  
10 the Williams complaint?

11 A I don't recall.

12 Q As you sit here today, you have no recollection  
13 of having seen it?

14 A No.

15 Q Paragraph 233 states, "Ms. Riester's November  
16 12th, 2008 letter requested the Bevan law firm  
17 to "voluntarily dismiss Eastern Magnesia Talc  
18 and, in the Young case, both Eastern Magnesia  
19 Talc and Engelhard Corporation, from these  
20 cases on the basis that talc produced by EMTAL  
21 contained no asbestos."

22 Do you see that?

23 A Yes, I see it.

24 Q Do you know what the Eastern Magnesia Talc is?

25 A I believe it's a company.

1 Q What is the basis for that answer?

2 A It would have been just either from this  
3 document or discussions with my attorney.

4 Q Other than seeing it in the Williams complaint  
5 or talking to the Cohen Placitella firm, you've  
6 got no independent knowledge of Eastern  
7 Magnesia Talc?

8 A No. I have no personal knowledge, other than  
9 what was advised by counsel.

10 Q Are you aware of any statements by BASF or  
11 Engelhard that are fraudulent other than the  
12 statements identified in the Williams  
13 complaint?

14 A I have no personal knowledge.

15 Q So paragraph 233 talks about the request to  
16 voluntarily dismiss the case.

17 Do you see that?

18 A I do.

19 Q Did you know that your mother had been asked to  
20 voluntarily dismiss her case?

21 A Since it was almost ten years ago, it's  
22 possible, but I don't recall specifically.

23 Q As you sit here today, you have no recollection  
24 of having been aware of this fact?

25 A No. That would have been something that I may



1 have discussed with my attorney at the time.

2 Q And your mother didn't voluntarily dismiss her  
3 case, correct?

4 A That is correct.

5 Q So receiving this letter from Ms. Riester  
6 didn't cause her to dismiss her complaint?

7 A No. I don't believe so.

8 Q Paragraph 234 of the Williams complaint says,  
9 "In support of both her request for voluntary  
10 dismissal and her representation that  
11 Engelhard's talc contained no asbestos, Ms.  
12 Riester provided the Bevan law firm again with  
13 copies of the Ashton Affidavit and Pooley  
14 Report, along with other purported analyses  
15 that allegedly state or indicate that talc from  
16 Engelhard's Johnson talc mine did not contain  
17 asbestos."

18 Do you see that?

19 A I do.

20 Q Have you ever seen the Ashton Affidavit before?

21 A I don't recall.

22 Q Have you ever seen the Pooley Report before?

23 A Again, I don't recall.

24 Q Was this the sort of correspondence that  
25 Mr. Bevan would have provided to you or your

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1 mother at the time he received it?

2 A It may have been. I don't recall.

3 Q If Mr. Bevan had provided this November 12th,  
4 2008 letter to your mother or you, would it be  
5 in the file that you keep at home?

6 A It might be. I don't know.

7 Q Do you know whether it's in that file?

8 A I don't know offhand.

9 Q At the time that the letter was sent, November  
10 2008, your mother had already passed away,  
11 correct?

12 A Correct.

13 Q So Mr. Bevan would have been communicating with  
14 you about her case?

15 A Correct.

16 Q Anyone else other than you?

17 A No.

18 Q Do you recall discussing the subject of the  
19 Ashton Affidavit or the Pooley Report with  
20 Mr. Bevan?

21 A I don't recall.

22 Q Paragraph 235 says, "To further bolster her  
23 request for voluntary dismissals of the two  
24 cases, Ms. Riester's letter noted to the Bevan  
25 law firm that Engelhard and EMTAL had been

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1 named as Defendants and subsequently dismissed  
2 voluntarily in 567 asbestos claims."

3 Do you see that?

4 A Yes.

5 Q And then it goes on to discuss cases in Kansas  
6 and Michigan and other places.

7 Do you see that?

8 A I do.

9 Q Did you know those facts?

10 A Only through the complaint.

11 Q So other than the fact that this was described  
12 in the complaint, you had no knowledge of the  
13 facts described in paragraph 235?

14 A If the information was previously provided, I  
15 don't recall.

16 Q Were you aware that Engelhard had been  
17 dismissed from other asbestos cases?

18 A I don't know.

19 Q Can you turn to Page 111 of the Williams  
20 complaint, paragraph 239.

21 Do you see that?

22 A Yes.

23 Q It says, "When Plaintiff Wengerd in her  
24 capacity as personal representative of her  
25 mother's estate (Mrs. Graham having died on

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1 July 8th, 2008) did not voluntarily dismiss  
2 BASF from her mother's asbestos injury case as  
3 requested by Ms. Riester in her November 12th,  
4 2008 letter, Ms. Riester and her firm  
5 thereafter filed a Motion For Summary Judgment  
6 seeking its involuntary dismissal."

7 Do you see that?

8 A I do.

9 Q Do you know what a Motion For Summary Judgment  
10 is?

11 A I believe that is when a Judge makes a ruling  
12 if it's worth saying -- worth pursuing or not.

13 Q Did you see BASF's Motion For Summary Judgment  
14 in your mother's case?

15 A I don't recall.

16 Q Paragraph 239 goes on to state, "Asking the  
17 Cuyahoga County Court of Common Pleas to  
18 dismiss this case, BASF claimed to the court  
19 that there was no proof that its predecessor  
20 Engelhard's talc was present in Ms. Graham's  
21 workplace at the Goodyear Tire & Rubber Plant  
22 she was employed in, and in any event, there  
23 was no evidence that Engelhard's talc contained  
24 asbestos."

25 Do you see that?

1 A Yes.

2 Q So the complaint is saying BASF had made two  
3 arguments. One was that your mother wasn't  
4 exposed to EMTAL talc, and two, there was no  
5 asbestos in the talc, right?

6 A That is what it says.

7 Q Is that your understanding of what BASF's  
8 Motion For Summary Judgment said?

9 A That's my understanding of that is what they  
10 claimed.

11 Q Both that your mother had not been exposed to  
12 the talc, correct?

13 A That is what it says.

14 Q So you're aware that BASF moved for summary  
15 judgment on the grounds that your mother wasn't  
16 exposed to its talc at all?

17 MR. COREN: Form. Objection.

18 A Yes. That is my understanding.

19 Q BASF's Motion For Summary Judgment doesn't  
20 actually argue at all that there was no  
21 asbestos in EMTAL talc, correct?

22 MR. COREN: Objection as to the  
23 form. You can respond if you know.

24 A I have no personal information to add to that,  
25 other than what would be advised by my

1 attorney.

2 Q Only Mr. Bevan would know?

3 A I would say Mr. Bevan would be apprised of  
4 that.

5 Q You have no basis to dispute that the only  
6 argument that BASF made in its opening brief  
7 for summary judgment was that your mother  
8 hadn't been exposed to EMTAL talc?

9 MR. COREN: Form. Objection.

10 A I would have no other personal information  
11 other than what was provided by my attorney.

12 Q Paragraph 240 says, "The Bevan firm in or about  
13 early 2009 opposed BASF's Motion for Summary  
14 Judgement."

15 Do you see that?

16 A Yes.

17 Q Do you have a copy of that brief?

18 A I don't know without checking my file.

19 Q It's possible you have it at home?

20 A It's possible.

21 Q So you could check that?

22 A Yes.

23 Q Do you know whether Mr. Bevan has a copy of the  
24 early 2009 opposition brief he filed?

25 A I would expect that he would have any copy of

1 anything he produced.

2 Q Did the Cohen Placitella firm ask you for a  
3 copy of the Bevan firm's opposition to BASF's  
4 Motion For Summary Judgment?

5 MR. COREN: Objection. Don't  
6 answer. Privilege.

7 A On the advice of counsel, I choose not to  
8 answer.

9 Q Did you ask Mr. Bevan whether he had a copy of  
10 the brief?

11 MR. COREN: Objection. Same.

12 A On advice of counsel, I choose not to answer.

13 Q Well, you read this document, correct?

14 A Correct.

15 Q When you were reading these paragraphs, 232,  
16 233, so on, and now we're up to 244 regarding  
17 your mother's original case, did you at any  
18 time ask the lawyers, "Hey, can I see the  
19 documents that are referenced in here?"

20 A No.

21 Q Why not?

22 MR. COREN: Objection. Don't  
23 answer.

24 MR. FARRELL: What's the basis  
25 for the instruction?

1 MR. COREN: Work product.

2 Attorney-client.

3 A On advice of counsel, I choose not to answer.

4 - - - - -

5 (Defendants' Exhibit 42 was marked.)

6 - - - - -

7 Q Mrs. Wengerd, I'm showing you what we've marked  
8 for identification as Defense Exhibit 42.

9 Do you have that in front of you?

10 A Yes.

11 Q And this is a copy of BASF's Motion For Summary  
12 Judgment in your mother's original case,  
13 correct?

14 A Yes.

15 Q Have you seen this document before?

16 A I don't recall.

17 Q If you turn to the page at the bottom of BASF's  
18 Motion for Summary Judgment, I see a Bates  
19 stamp BASF\_Williams and then the number is  
20 20427?

21 A Yes.

22 Q Could you turn to that page? I think it's the  
23 third page of the document.

24 A 20427, you said?

25 Q 20427, correct.



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1 A Okay. I have that.

2 Q The second paragraph says, "Jennifer Graham was  
3 deposed over several days. She did not  
4 identify EMT as the manufacturer of any talc  
5 products at Goodyear."

6 Do you see that?

7 A I do.

8 Q "Her father, David Wertheimer, was deposed in  
9 his own case and as a co-worker in other cases  
10 prior to his death."

11 Who is David Wertheimer?

12 A David Wertheimer was my mother's father.

13 Q And was he a tire worker?

14 A He was.

15 Q Which plant did he work at?

16 A I believe he was at Goodrich.

17 Q Did he file a personal injury case related to  
18 asbestos exposure?

19 A I believe he may have.

20 Q Do you know whether he sued Engelhard or BASF  
21 in his case?

22 A I wouldn't know.

23 Q Do you know whether Mr. Wertheimer is in or out  
24 of the Williams class?

25 A I don't know. He would -- my assumption would

1 be that he is not since he is deceased, but  
2 again, I would have to confer with my attorney  
3 to know.

4 Q Your view is that anybody who has passed away  
5 is no longer in the Williams class?

6 A I don't know that. That is not true, actually.

7 Q That was what you had just told me, that you  
8 thought he was -- that that's the reason he  
9 wouldn't be in the class?

10 A I don't know that he would be or would not be.  
11 Again, I would have to confer with my attorney.

12 Q You don't know one way or the other?

13 A I have no personal information to add, other  
14 than what my attorney would advise.

15 Q BASF's Motion For Summary Judgment goes on to  
16 say, "He did not identify EMT as a manufacturer  
17 of talc. Plaintiff has offered no testimony  
18 that she was ever exposed to an EMT product.  
19 Plaintiff has not provided any evidence that  
20 she was ever exposed to a product manufactured  
21 or supplied by EMT."

22 Do you see that?

23 A I do.

24 Q So BASF's Motion For Summary Judgement is  
25 arguing they should be dismissed from the case

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1 because there was no evidence your mother  
2 actually used EMTAL talc, correct?

3 A That is what it says, yes.

4 Q And then on the cover of the first page of the  
5 MSJ, this is the page marked BASF\_Williams  
6 20426, there's a stamp on the top that says  
7 "Granted", right?

8 A I see.

9 Q So it's possible the Court granted BASF's  
10 Motion For Summary Judgment because your mother  
11 wasn't exposed to EMTAL talc at all, correct?

12 MR. COREN: Objection. Because  
13 you're asking her to speculate to the Court,  
14 and she has no basis to speculate on the Court.

15 Q You can answer the question.

16 A I believe that based on the information that  
17 the Court was provided, that was the decision  
18 that the Court came to at that time.

19 Q That BASF should be dismissed because there was  
20 no evidence your mother was exposed to EMTAL  
21 talc?

22 MR. COREN: Objection to form.  
23 Same. Speculating into the Court's reason that  
24 the opinion was issued.

25 A I don't know why they would have made that

1 other than what I previously said, that that  
2 was information that was provided to the Court.

3 Q As you sit here today, you don't know why the  
4 Court granted BASF's Motion For Summary  
5 Judgment, correct?

6 A I wouldn't know the mind of the Judge that made  
7 the decision.

8 Q It's possible that the Judge granted the motion  
9 because he thought there was no evidence your  
10 mother was actually exposed to EMTAL talc,  
11 correct?

12 MR. COREN: Form. Objection.

13 A It's possible.

14 Q If your mother wasn't actually exposed to EMTAL  
15 talc at all, then it wouldn't matter whether  
16 there was asbestos in the talc, correct?

17 MR. COREN: Objection to form.

18 A It wouldn't matter if she was exposed to the  
19 talc? I don't know that I agree with that. I  
20 think if she was exposed to the talc and it  
21 contained asbestos, it would definitely be  
22 prudent to this case.

23 Q I'm asking a slightly different question. If  
24 your mother wasn't exposed to EMTAL talc at  
25 all, it wouldn't matter to her case whether

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1           there was asbestos in the talc, correct?

2                           MR. COREN:   Form objection.   You  
3           can answer.

4    A    That's correct.

5    Q    Now, your mother also filed claims against the  
6           company called RT Vanderbilt, right?

7    A    That name sounds familiar.

8    Q    Do you recall having to address issues related  
9           to your mother's claims against RT Vanderbilt?

10   A    I don't recall.

11   Q    RT Vanderbilt is a manufacturer of talc?

12   A    I don't recall exactly what they manufacture.

13   Q    Your mother was asked during her deposition  
14           whether she associated a brand name with the  
15           talc that she worked with at Goodyear, correct?

16   A    I believe that's correct.

17   Q    And she identified Vanderbilt, correct?

18   A    I don't recall without reviewing her  
19           deposition.

20                           -   -   -   -   -

21                   (Defendants' Exhibit 43 was marked.)

22                           -   -   -   -   -

23                           MR. COREN:   Liz, what number are  
24           we up to?

25                           MS. DALMUT:   43.

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1 A Is there a specific line that you're requesting  
2 that I look at?

3 Q Yes. One moment.

4 So, Mrs. Wengerd, I've put in front of  
5 you a portion of your mother's deposition  
6 transcript that we've marked as Defense Exhibit  
7 43. This is the July 3rd, 2008 session of the  
8 deposition.

9 Do you see that?

10 A I don't see the date. Oh, yes.

11 Q And you told me earlier that you were present  
12 for all of the days of her deposition?

13 A That's correct.

14 Q Have you ever seen the transcript before, or  
15 were you just present while she was giving  
16 testimony?

17 A I don't think I've seen the transcript before.

18 Q Can you turn to page 35 of the transcript.

19 A Okay.

20 Q And towards the bottom of page 35, do you see  
21 there's a question there by Mr. Bevan,  
22 "Jennifer, earlier in your testimony you  
23 mentioned talc.

24 Do you recall that?"

25 Answer: "Yes, I do."

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1 Question: "Do you recall the names of  
2 that talc?"

3 Answer: "I associate that name with  
4 Vanderbilt."

5 Do you see that?

6 A Yes.

7 Q And that was your mother's testimony in her  
8 deposition?

9 A Yes.

10 Q So she had said she had -- the brand talc she  
11 worked with was Vanderbilt talc, correct?

12 MR. COREN: Objection as to form.

13 A That is one name she recalled.

14 Q The only name she identified in response to  
15 Mr. Bevan's question about the brands she  
16 worked with, correct?

17 A That is what it says, yes.

18 Q Were you aware that Mr. -- withdrawn.

19 Are you aware that Vanderbilt also filed  
20 a Motion For Summary Judgment?

21 A I don't recall.

22 Q Do you know whether Vanderbilt was dismissed  
23 from your mother's case?

24 A I don't recall.

25 Q Do you know what the final outcome of your

1 mother's claim against RT Vanderbilt was?

2 A Not without conferring with my attorney. I  
3 don't remember.

4 Q Mr. Bevan would know the answer to that  
5 question?

6 A Correct.

7 Q We would need to talk to him to know?

8 A Correct.

9 - - - - -

10 (Defendants' Exhibit 44 was marked.)

11 - - - - -

12 Q Mrs. Wengerd, I'm showing you what we've marked  
13 as Defense Exhibit 44, which is a copy of your  
14 interrogatory responses in the Williams case.  
15 Have you seen this document before?

16 A Yes. I believe so.

17 Q When did you see it?

18 A I don't recall. It may have been a part of the  
19 packet with the complaint that I was provided.

20 Q Who sent it to you?

21 A It would have been from Mr. Coren's office.

22 Q From Mr. Coren or somebody in his office?

23 A I don't know who actually sent the envelope.

24 Q Did you write the responses to these  
25 interrogatories?



1 A No. I did not write all of them. There were  
2 some that I believe I wrote and some that were  
3 asked verbally.

4 Q Which ones did you write the responses to?

5 A I don't recall.

6 Q Which ones did you respond to verbally?

7 A I don't recall.

8 Q Can you identify one response that you wrote  
9 yourself?

10 A Let me look. Do you have a specific one that  
11 you're asking if I wrote since most of these  
12 are noted with objections?

13 Q Well, you said you wrote some of them. I don't  
14 know which ones you wrote. So can you identify  
15 for me which of your interrogatory responses  
16 you wrote?

17 A Interrogatory number 7 would have been  
18 something that I would have been asked  
19 verbally.

20 I can't recall if I wrote Interrogatory  
21 number 9 or not or if it was asked verbally.

22 I can't recall.

23 Q As you sit here today, you can't identify even  
24 one interrogatory response you wrote yourself?

25 A Again, the one that provided the addresses, I

1 may have written that, but I can't remember  
2 offhand since it was some time ago. It's  
3 possible.

4 Q As you sit here today, you don't know?

5 A That's right.

6 Q Who would have written the responses if it  
7 wasn't you?

8 A I believe it would have been the -- I believe  
9 she was a paralegal from the Cohen firm, but I  
10 cannot recall her name.

11 Q She wrote the responses?

12 A I believe, because she was writing as I was  
13 talking trying to tell her.

14 Q How long did the conversation last?

15 A I don't remember.

16 Q When did the conversation occur?

17 A I don't recall the date.

18 Q So you spoke to a paralegal from the Cohen  
19 Placitella firm on the phone, she wrote the  
20 responses and --

21 A No. We met in person.

22 Q You met in person.

23 Where did that happen?

24 A At Mr. Bevan's firm.

25 Q So you met with a paralegal from the Cohen

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1 Placitella firm at Mr. Bevan's office?

2 A Correct. Mr. Placitella was also there at the  
3 time. Jared.

4 Q Anybody else?

5 A No. Not that I recall.

6 Q Was Mr. Bevan there?

7 A I may have said hello to him, but that's --

8 Q Did he participate in the meeting?

9 A No.

10 Q Did he provide any input into your  
11 interrogatory responses?

12 A No.

13 Q So after this paralegal from the Cohen  
14 Placitella firm drafted your responses, did  
15 they hand you a draft on the spot at the  
16 meeting, or did you receive them sometime  
17 later?

18 A I believe I received them sometime later. She  
19 may have e-mailed them at some point as well.

20 Q So you have at least one e-mail from the Cohen  
21 Placitella firm?

22 A I believe so.

23 Q When was that?

24 A I don't recall.

25 Q Last month, last year?

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1 A I barely remember what I had for breakfast.

2 I'm sorry. I don't recall the date.

3 Q Before or after Christmas?

4 A I think it was after.

5 Q Before or after New Year's?

6 A I think after.

7 Q So the first time you saw the responses to  
8 these interrogatories you believe was after New  
9 Year's?

10 A I would be guessing at the date. I don't  
11 recall.

12 Q After you received a copy of the draft  
13 interrogatory responses from the Cohen  
14 Placitella firm, did you tell them you had any  
15 changes to make?

16 A No. I don't recall making any changes.

17 Q The first draft you saw you thought was  
18 accurate?

19 A I do.

20 Q Can you turn to Interrogatory number 5.  
21 Interrogatory 5 asks you to "Identify all  
22 evidence, including any documents (and  
23 excluding your own testimony) that support your  
24 contention that decedent was exposed to EMTAL  
25 talc."

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1 Do you see that?

2 A I do.

3 Q And then the response says, "Subject to and  
4 without waiving the foregoing objections,  
5 Plaintiff, in her document production, will  
6 provide any non-privileged information and  
7 documentation responsive to this request."

8 Which documents in your document  
9 production contain evidence that your mother  
10 was exposed to EMTAL talc?

11 MR. COREN: I instruct you not to  
12 answer to the extent your answer relies upon  
13 the advice of counsel. If you could answer the  
14 question without incorporating or revealing the  
15 advice of counsel, please respond to  
16 Mr. Farrell's question.)

17 A Per advice of counsel, I choose not to answer.

18 Q You can't answer that question?

19 A On advice of counsel, I choose not to answer  
20 the question.)

21 Q You're refusing to answer that question?

22 A On advice of counsel, correct.

23 MR. FARRELL: At this time we're  
24 going to stop for today. There have been five,  
25 six dozen instructions not to answer that are

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1 improper, including to the last answer that I  
2 just asked.

3 We're going to have to come back and  
4 continue this deposition after we've taken this  
5 up with Judge Dickson and we can get answers to  
6 the questions.

7 As I said earlier, we're holding the  
8 deposition open. We reserve the right to seek  
9 fees and costs and to come back to ask the  
10 questions again, and also to continue the  
11 deposition on the topics of information and  
12 documents we still haven't received in the  
13 case.

14 MR. GEYERMAN: The Cahill  
15 Defendants have some questions. Do we want to  
16 take our lunch break, or do we want to go right  
17 to it?

18 MR. COREN: Go right to it.

19 MR. GEYERMAN: All right. Why  
20 don't we take five minutes so we can switch  
21 chairs.

22 THE VIDEOGRAPHER: Off the  
23 record. The time is 12:25.

24 (Recess taken.)

25 - - - - -

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1 (Defendants' Exhibit 45 was marked.)

2 - - - - -

3 THE VIDEOGRAPHER: Back on the  
4 record. The time is 12:40.

5 EXAMINATION OF DONNETTE WENGERD

6 BY MR. GEYERMAN:

7 Q Good morning, Ms. Wengerd. My name is Grant  
8 Geyerman, I'm from Williams & Connolly, and I  
9 represent the Cahill Defendants.

10 I've put in front of you what's been  
11 marked as Defense Exhibit 45. Can you please  
12 take a look at that document and tell me if  
13 you've ever seen this before?

14 A Yes.

15 Q What is this document?

16 A These are the interrogatories and my responses.

17 Q And these are the answers to the  
18 interrogatories propounded by Cahill, Gordon &  
19 Reindel, specifically?

20 A I'm sorry. One more time.

21 Q Sure. These are the answers to the  
22 interrogatories posed to you by Cahill, Gordon  
23 & Reindel?

24 A I don't recall who initiated them. You might  
25 say it's a friend.

1 Q Yeah. Take a look at the front page. It says  
2 Plaintiff Donnette Wengerd's Answers To Cahill,  
3 Gordon & Reindel's First Set of  
4 Interrogatories?

5 A Okay.

6 Q And just to clarify, Defense Exhibit 45 are the  
7 answers to Cahill's interrogatories, and  
8 Defense Exhibit 44 are your answers to BASF's  
9 Interrogatories?

10 A Yes.

11 Q Do you remember that during the course of this  
12 case there were multiple sets of  
13 interrogatories that you were asked to answer?

14 A Yes.

15 Q Okay. And were there more than two sets of  
16 interrogatories?

17 A I don't remember.

18 Q You had mentioned during Mr. Farrell's  
19 questioning that there was a meeting where  
20 Jared was there, a paralegal from the  
21 Placitella firm was there, and you orally went  
22 over your answers to the interrogatories posed  
23 by BASF.

24 A Correct.

25 Q Do you remember that back and forth?



1 A Uh-huh.

2 Q Did you go over the interrogatories posed by  
3 Cahill during that same meeting?

4 A They weren't distinguished if one was for  
5 Cahill and one was for BASF that I recall.

6 Q Have there been -- has there been more than one  
7 meeting where people have communicated with you  
8 about information for purposes of answering  
9 interrogatories?

10 A There was only one meeting. I don't recall if  
11 there was anything about them over the phone.

12 Q So sitting here today, to the best of your  
13 recollection, you supplied information to  
14 answer Cahill, Gordon & Reindel's  
15 interrogatories during the same meeting when  
16 you provided answers to BASF's interrogatories;  
17 is that accurate?

18 A Yes. That is what I think, yes.

19 Q You testified earlier as to the BASF  
20 interrogatories that after the in-person  
21 meeting, a draft of the responses was sent to  
22 you for review.

23 A Correct.

24 Q Was that same process followed as to the  
25 answers to the Cahill interrogatories?

1 A I don't remember if they were segregated from  
2 one to the other.

3 Q Do you remember being supplied DX-45 for your  
4 review at all?

5 A I believe it was e-mailed to me.

6 Q Was it e-mailed to you at the same time as the  
7 answers to the BASF interrogatories?

8 A I don't recall.

9 Q Who e-mailed it to you?

10 A I believe the paralegal that originally had  
11 written down my responses.

12 Q Do you have more than one e-mail address?

13 A Yes.

14 Q What e-mail address did the answers to the  
15 Cahill interrogatories get sent to?

16 A I believe they sent them to happyfam@me.com.

17 Q That's H-A-P-P-Y-F-A-M@M-E.com?

18 A Right.

19 Q But you have other e-mail addresses?

20 A Yes.

21 Q What are your other e-mail addresses?

22 A Mrpuddlesohio@yahoo.com,  
23 Mrpuddlesohio@gmail.com, and then my children  
24 each have an e-mail address, but I couldn't  
25 even tell you what they were.

1 Q So the two that you have, not your children's,  
2 but that's M-R-P-U-D-D-L-E-S-O-H-I-O and then  
3 dot Yahoo and then separately dot Gmail?

4 A Right.

5 Q Have you heard of a form called a verification  
6 form?

7 A Yes. That sounds familiar.

8 Q Tell me what your understanding of a  
9 verification form is.

10 A That I'm verifying the information that's  
11 provided to me, and I do that by typically  
12 signing. Sometimes it could be witnessed or  
13 the stamp. I'm sorry. I can't remember what  
14 it's called.

15 Q Do you remember verification saying that by you  
16 signing the verification form, you're attesting  
17 to the best of your knowledge the truth of the  
18 information of the document that you're  
19 verifying?

20 A Correct.

21 Q In substance that's basically what it is?

22 A Yes.

23 Q Okay. Did you fill out a verification form  
24 concerning your answers to the interrogatories  
25 posed by Cahill?

1 A I don't remember.

2 Q Have you -- have you signed a verification  
3 concerning anybody's, any Defendant's  
4 interrogatories in this case?

5 A I don't remember.

6 Q If you did, would you have provided that to  
7 your lawyers after you signed it?

8 A I would have given it back to my attorneys.  
9 They would have provided it, I would have  
10 signed it and handed it back. I wouldn't have  
11 a copy, that I'm aware of.

12 Q Your practice would be if you signed it, you  
13 would give it to them. You wouldn't just sign  
14 it and hold on to it yourself?

15 A Correct.

16 Q Are the answers in Defense Exhibit 45 true,  
17 accurate and complete?

18 A Yes. From what I can see.

19 Q And are you saying that based on your review of  
20 it sitting here right now, or is it based on  
21 your having reviewed the document at some prior  
22 point in time?

23 A Both.

24 Q Have you looked at every page of that document  
25 in front of you?

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1 A Not at this moment, but yes, I believe I have  
2 previously.

3 Q Look at Interrogatory number 3, if you would.

4 A Okay.

5 Q This is about your mother's employers.

6 A Yes.

7 Q Is the response accurate?

8 A Yes, to the best of my knowledge.

9 Q What was the last employer your mother had  
10 before she passed away?

11 A Land O'Lakes.

12 Q This response says in the third sentence,  
13 "Decedent was next employed at Land O'Lakes  
14 where she worked on machines and shipping."  
15 Next sentence, "Lastly, the Defendant was  
16 employed at Goodyear Tire & Rubber Company,"  
17 correct?

18 A Since no dates were provided, I did not see  
19 that that was a problem. The places of  
20 employment were listed, although they may not  
21 be in perfect order.

22 Q The last place that she worked was not Goodyear  
23 Tire & Rubber, correct?

24 A That is correct.

25 Q She worked at Land O'Lakes for over 25 years?

1 A It was a long time. I don't know how many  
2 years exactly.

3 Q Go to Interrogatory 4, if you would. This is  
4 concerning asbestos exposure, correct?

5 A Correct.

6 Q And specifically, the asbestos exposure of your  
7 mother?

8 A Correct.

9 Q The second paragraph starts, "Subject to and  
10 without waiving the foregoing objections upon  
11 information and belief."

12 What's your understanding of what "upon  
13 information and belief" means?

14 A Upon information that was provided to me or the  
15 beliefs that I held from conversations with  
16 attorneys.

17 Q So is that language, "upon information and  
18 belief", a way of saying these aren't your --  
19 these aren't facts that you personally know,  
20 but they're facts that have been supplied to  
21 you?

22 A It could be either or because if it's a belief,  
23 it could be just something that was provided to  
24 me and has become my opinion.

25 Q Well, tell me -- I guess I want to know which

1 of the factual allegations in the second and  
2 third paragraph you have personal knowledge of  
3 as opposed to facts that have been provided to  
4 you by counsel in this case?

5 A The fact that my mother was in a supervision or  
6 supervisor program, that would have been  
7 provided by my mother.

8 And as far as her going to the different  
9 positions or different departments, that was  
10 information that was discussed during her  
11 previous -- forgive me, I can't -- deposition.  
12 So that's something that I overheard from her.

13 Again, the same with hearing that the  
14 larger bags about the talc.

15 Q That was -- where did you get that information?

16 A That would have been something that would have  
17 been discussed between she and I, as well as --

18 MR. COREN: If it's about  
19 conversations with an attorney, please don't  
20 answer. If it's from your mother, please go  
21 ahead.

22 A That would have been something as well that was  
23 in her deposition that I was present for.

24 Again, hearing that from the rubber  
25 stretching rooms, the benzine. The information

1 regarding my grandfather and my mother working  
2 on brakes again was something that was covered  
3 in her deposition.

4 Q So if I'm hearing you right, either the facts  
5 in here come from sitting in the deposition  
6 with your mom or prior discussions with your  
7 mom?

8 A Yes.

9 Q And in neither of -- in neither the deposition,  
10 nor in discussions with your mom did she ever  
11 say that she was exposed to EMTAL talc, right?

12 A I don't remember the exact phrasing, but it  
13 would be in her deposition if she did say that.

14 Q Right. And as to conversations with your mom,  
15 she never mentioned EMTAL talc to you, that you  
16 can remember, correct?

17 A You're referring to the fourth paragraph?

18 Q I'm referring to the fact that you've  
19 identified basically two bases for your  
20 information here. Either having sat in the  
21 deposition of your mother, or separately you  
22 mentioned discussions with your mother. And my  
23 question is, do you have a recollection of any  
24 discussion with your mother where she said she  
25 was exposed to EMTAL talc?



1 A Yes, I believe that was something that she was  
2 saying that she was exposed to.

3 Q EMTAL talc specifically?

4 A I believe.

5 Q What was the date of that conversation?

6 A I wouldn't remember.

7 Q Is there a reason that she wouldn't have  
8 disclosed exposure to EMTAL talc in her  
9 underlying case if she discussed it with you?

10 A My mother was under extremely heavy narcotics,  
11 and that's something that definitely could have  
12 been discussed prior to or after the  
13 deposition.

14 Q But you can't give me any specific facts about  
15 that conversation that supposedly occurred?

16 A No. Those were -- that was ten years.

17 Q You're not even sure that it did occur?

18 A If I -- if I put it down that that was  
19 something, then yes, it would be.

20 Q Put it down where?

21 A If it was a response to the answer.

22 Q But you didn't put that in the response to this  
23 answer.

24 A It says that in the fourth paragraph that it  
25 does. That that's something that was noted.

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1 Q The paragraph says, "In addition to the  
2 evidence indicating that Plaintiff's Decedent  
3 was exposed to asbestos contaminated (sic) in  
4 EMTAL talc."

5 That doesn't say that you had a  
6 conversation with your mom about her being  
7 exposed to EMTAL talc, correct?

8 A No. It doesn't.

9 Q So I'm asking you, where is there any evidence  
10 that your mom and you ever discussed her being  
11 exposed to EMTAL talc?

12 A I wouldn't have any physical evidence.

13 Q You mentioned earlier -- strike that.

14 Go to Interrogatory 5, please.

15 A Okay.

16 Q The second paragraph of that answer refers to a  
17 personal injury lawsuit in 2001. That was a  
18 lawsuit brought by your mother and her husband?

19 A Are you talking about where it says, "Subject  
20 to" -- I'm sorry. You're talking about the  
21 paragraph before?

22 Q No, that paragraph. You're in that right  
23 paragraph.

24 A Okay.

25 Q It says, "Plaintiff advises the Decedent was a

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1 named Plaintiff, along with her husband, in a  
2 personal injury lawsuit in 2001. Decedent's  
3 husband was run over by a tow motor and the  
4 case was settled?"

5 Do you see that?

6 A Yes.

7 Q So this is referring to a lawsuit that your  
8 mother and her late husband filed?

9 A That is inaccurately worded. It was my  
10 husband, not my mother's husband.

11 Q Well, when you reviewed this, why didn't you  
12 change that?

13 A I didn't catch it at the time.

14 Q Were you injured in connection with that tow  
15 motor accident?

16 A I was not.

17 Q Was Tom Bevan the lawyer in that case?

18 A No.

19 Q Who was the lawyer representing you and your  
20 husband?

21 A I don't recall his name.

22 Q The case was settled for a financial amount?

23 A Yes.

24 Q How much?

25 MR. COREN: Don't answer.

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1 MR. GEYERMAN: On what basis?

2 MR. COREN: It's totally

3 irrelevant. Once again, it goes to issues of

4 settlement. It has no bearing at all of what a

5 third party, her husband, settled a tow motor

6 case, Grant.)

7 MR. GEYERMAN: Relevance isn't a

8 basis to instruct a witness not to answer in a

9 deposition in Federal Court.)

10 MR. COREN: It has to lead to

11 something admissible, and that is clearly not

12 going to lead to anything that is potentially

13 admissible in this particular case. Even

14 Discovery has relevance limits. You stepped

15 over it.)

16 Q Ma'am, how much did that prior personal injury

17 case settle for?)

18 MR. COREN: Don't answer.)

19 A Per the advice of my attorney, I choose not to

20 answer.)

21 Q Do you know how much it settled for?

22 A I believe it says, "Plaintiff does not recall,"

23 and I do not.

24 Q Regardless of what it says on this piece of

25 paper, I'm asking you today, do you know

1 approximately how much that case settled for?

2 A No.

3 Q Go to Interrogatory 8, please. This is asking  
4 about alleged misrepresentations that were made  
5 in connection with your mother's personal  
6 injury lawsuit, correct?

7 A Correct.

8 Q Do you -- if I asked you to identify what the  
9 misrepresentation was, the false statement that  
10 you claim was made in connection with your  
11 mother's case, could you identify that?

12 A No. Not specifically.

13 Q Who could identify it?

14 A I would have to confer with my attorneys.

15 Q And could you give me the names of the people  
16 specifically that could identify the  
17 misrepresentations allegedly made in your  
18 mother's case?

19 A Mr. Coren, Mr. Placitella.

20 Q Anybody else?

21 A Possibly Mr. Bevan.

22 Q Anybody else other than those three?

23 A There may be other people that are a part of  
24 the attorney team, but those specifically come  
25 to mind as far as names.

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1 Q Sitting here today, you're not able to identify  
2 anyone other than those three lawyers who could  
3 identify the misrepresentation made in your  
4 mother's case, fair?

5 A That's fair.

6 Q Do you see in the second to last paragraph of  
7 your answer to Interrogatory number 8, it  
8 starts, "Plaintiff refers this Defendant to the  
9 complaint and documents?" That's how it  
10 starts. Are you with me?

11 A Yes.

12 Q There is a reference to Sampson v. BASF, et  
13 al., and then a case number.

14 Do you know what that is?

15 A No.

16 Q Did you ask any questions about it when you  
17 were reviewing your interrogatory answers?

18 A No. I expect my attorney to put in the correct  
19 references to some of the cases.

20 Q But -- I'm sorry, finish your answer.

21 A No. That's it.

22 Q You personally can't vouch for the accuracy of  
23 what's in this answer?

24 A In that specific reference, no, I cannot.

25 Q And in a lot of other parts of your

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1       interrogatory answers, you don't know them to  
2       be inaccurate, but you also don't know them to  
3       be true; is that fair?

4     A     Anything that was asked of me was to the best  
5           of my knowledge.

6 Q In the paragraph right before the one we were  
7 just looking at, it says, "On information and  
8 belief, Plaintiff believes Engelhard and BASF  
9 admit that her mother's and numerous other talc  
10 asbestos cases against Engelhard/BASF were  
11 dismissed or resolved cheaply without just  
12 compensation based upon Engelhard/BASF's and  
13 this Defendant's representations to attorneys,  
14 such as her mother's attorneys in the  
15 underlying action, that there was no asbestos  
16 in EMTAL talc and there was no evidence that  
17 there was any asbestos in EMTAL talc."

18 Did I read that accurately?

19      A      Yes.

20 Q In this case you're not alleging that with  
21 respect to your mother's case, there were  
22 misrepresentations made to attorneys, correct?

23     A     From myself?

24 Q As the representative of your mother's estate,  
25 it is not your contention that

1 misrepresentations were made to attorneys in  
2 your mother's case, but rather, that  
3 misrepresentations were made to a Court,  
4 correct?

5 A Yes.

6 Q So this paragraph doesn't have anything to do  
7 with your mother's case, correct?

8 MR. COREN: Objection to form.

9 A No. I believe that being exposed to the talc  
10 from Engelhard or BASF does have a link to her  
11 case.

12 Q Well, this interrogatory is asking about each  
13 and every misrepresentation in connection with  
14 your mother's case, and the answer talks about  
15 misrepresentations to attorneys. But you just  
16 told me that your mother's case, the alleged  
17 misrepresentation was supposedly made to a  
18 Court?

19 A Yes. That is correct. Not from necessarily my  
20 mother.

21 Q Why didn't you change this answer then when you  
22 were reviewing the answers to interrogatories?

23 MR. COREN: Objection to form.

24 A Because hindsight is 20/20.

25 Q If you were going to rewrite it, you would



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1 change it now, right?

2 MR. COREN: Objection to form.

3 A Possibly.

4 Q Can you go to -- strike that.

5 Can you go to Interrogatory number 12.

6 A Okay.

7 Q This asks, "For each civil action and asserted  
8 claim identified in response to Interrogatory  
9 number 6 above, identify each and every  
10 attorney or other representative or employee of  
11 Engelhard that you, Decedent, or anyone acting  
12 on you or Decedent's behalf, including counsel,  
13 ever communicated with concerning the action or  
14 claim, including," and then it asks for certain  
15 information about the individual attorneys.

16 And your answer is cross-referencing the  
17 answer to Interrogatory 8.

18 A Okay.

19 Q And then it says, "By way of further response,  
20 Plaintiff does not personally recall any  
21 communications with specific attorneys or other  
22 representatives or employees of Engelhard,"  
23 right?

24 A That's what it says.

25 Q You aren't aware of any statements made by the

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1 Cahill, Gordon & Reindel law firm to your mom  
2 or you or your mom's lawyers in connection with  
3 her lawsuit, fair?

4 A I have no personal information other than that  
5 provided by my attorneys.

6 Q Well -- and you don't even have any information  
7 provided by attorneys that people from the  
8 Cahill Gordon firm made statements,  
9 representations to you, your mom or your  
10 attorney in connection with her case, right?

11 MR. COREN: Objection. I'm going  
12 to instruct her not to answer to the extent her  
13 answer relies upon advice of counsel. If she  
14 can answer your question, Grant, without  
15 incorporating or revealing advice of counsel,  
16 then I would ask her to respond to your  
17 question.

18 A I have no -- nothing else to add other than  
19 upon advice of counsel.

20 Q Do you know who the law firm of Cahill, Gordon  
21 & Reindel is?

22 A I know of it. I don't --

23 Q What do you know of the firm?

24 A I know that it's the firm named in part of  
25 some of the fraudulent charges regarding my

1 mother's case.

2 Q They're a Defendant in the case?

3 A Correct.

4 Q And allegations have been made against them  
5 that are in the Second Amended Complaint, for  
6 example?

7 A Correct.

8 Q Apart from that general notion, do you know  
9 anything about the law firm?

10 A I don't.

11 Q You've never had any interaction with them  
12 yourself?

13 A Not that I'm aware of.

14 Q Your mom never had any interaction with them?

15 A Not that I'm aware of.

16 Q And your mom's attorneys, the Bevan firm,  
17 didn't have any interaction with them  
18 concerning your mom's case, correct?

19 MR. COREN: Objection to form.

20 A I don't know.

21 Q Sitting here today, you can't identify any  
22 evidence that anyone from the Cahill, Gordon &  
23 Reindel firm interacted with the Bevan firm  
24 concerning your mom's case, correct?

25 A I don't know.

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1 Q Well, I'm just asking whether you know of any  
2 evidence. If you don't know of evidence, you  
3 can say that.

4 Do you know of any evidence sitting here  
5 today that anyone from the Cahill, Gordon &  
6 Reindel firm interacted in any way with people  
7 from the Bevan firm concerning your mom's case?

8 MR. COREN: And once again, to  
9 the extent that your answer relies upon advice  
10 of counsel, I instruct you not to answer.

11 However, if you can independently of advice of  
12 counsel answer the question without  
13 incorporating or revealing advice of counsel,  
14 you may respond.

15 A I don't know.

16 Q Well, let's go to that document that you're  
17 looking at. That's a fair thing.

18 MR. GEYERMAN: And for the  
19 record, the witness pulled out Defense Exhibit  
20 42, which is titled Defendant Eastern Magnesia  
21 Talc Company's Motion For Summary Judgment.

22 Q Is that right?

23 A Yes.

24 Q Is that the document you pulled out in response  
25 to my last question?

1 A Yes.

2 Q Do you see anywhere on this document the  
3 Cahill, Gordon & Reindel firm listed as being  
4 involved at all?

5 A Without reading it word by word, I don't see it  
6 called out, no.

7 Q Do you see on the first page that the lawyer  
8 submitting the brief is a Jennifer A. Riester  
9 from Weston Hurd in Cleveland, Ohio?

10 A Correct.

11 Q And is it your understanding that the Cahill  
12 Gordon firm is a law firm based in New York  
13 City?

14 A Correct.

15 Q So obviously, the Weston Hurd firm is not the  
16 Cahill firm, right?

17 A Right.

18 Q If you go to Interrogatory 11, please.

19 A Okay.

20 Q This asks for an identification of each  
21 occasion and instance on which you or your  
22 mother were harmed, is that correct, in  
23 connection with the allegations in this case?

24 A That is correct.

25 Q And I think you answered some questions earlier

1 from Mr. Farrell about there are really two  
2 things that you're seeking in this case. One  
3 is compensation for your mom's asbestos  
4 injuries, and the other is a judicial  
5 determination of wrongdoing?

6 A Correct.

7 Q You understand that the law firm Cahill, Gordon  
8 & Reindel didn't cause your mom to get  
9 mesothelioma, right?

10 A I do understand that.

11 Q So the compensation that you're seeking has  
12 nothing to do with the Cahill, Gordon & Reindel  
13 firm, correct?

14 MR. COREN: Object to form.

15 A I disagree with that.

16 Q Tell me how the asbestos injuries that you're  
17 seeking compensation for are caused by the law  
18 firm?

19 A Because I believe that the law firm did not act  
20 in full propriety with giving all of the  
21 evidence that was requested and did not  
22 represent -- did not represent the evidence  
23 that did harm my mother's case.

24 Q And as I understood what you're seeking in the  
25 case, there would be two buckets. One was a

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1 judicial determination of wrongdoing, and the  
2 other was compensation for the personal  
3 injuries that were allegedly undercompensated  
4 for before; is that right?

5 A Correct.

6 Q So you want compensation to be of the amount  
7 that your mom should have been compensated back  
8 in 2000 -- the late 2000s; is that right?

9 MR. COREN: Objection to form.

10 You can answer.

11 A I believe that should a Judge find that the law  
12 firm did act in a fraudulent way, whether  
13 withholding, destroying, not providing evidence  
14 that should have been provided and was  
15 requested in my mother's case, that the law  
16 firm should not be able to keep the proceeds  
17 that they earned during that case as a way of  
18 profiting for themselves.

19 I believe that my mother's case was  
20 harmed, and that the law office was a part of  
21 that as well.

22 Q So I just want to make sure I understand what  
23 you're seeking. I understood you before to be  
24 saying that you wanted compensation for your  
25 mom's asbestos injuries. As a part of that,

1 are you saying that involves the legal fees  
2 earned by the law firm?

3 A That is correct.

4 Q So does the compensation for personal injuries,  
5 does that bucket that you testified to earlier,  
6 does that include anything other than the law  
7 firm's attorneys -- strike that. Poorly  
8 worded.

9 I'm trying to understand from the law  
10 firm's perspective what monies, if any, you  
11 consider to be part of the compensation for  
12 asbestos injuries that you're interested in  
13 obtaining in this case. And you just told me  
14 one of the things is the attorney's fees that  
15 they earned in connection with your mother's  
16 case.

17 A Right.

18 Q Is there any other monies from the law firm  
19 that you consider to be encompassed within the  
20 category of damages for compensation that  
21 you're seeking?

22 A I don't know specifically. I think that's  
23 something I would confer to my attorney.

24 Q But insofar as the money is to compensate for  
25 the mesothelioma that your mother developed,



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1       you're not interested -- you're not -- you  
2       understand that that's not money that the law  
3       firm should be paying?

4 A I understand --

5 MR. COREN: Objection.

6 A -- that the law firm did not cause my mother's  
7 mesothelioma.

8 Q And you're not asking for money from the law  
9 firm to compensate for the mesothelioma injury?

10 A No, just damage to her case.

11 Q And the damage to her case that you just talked  
12 to us about is the attorney's fees that the law  
13 firm made for that case?

14 MR. COREN: Objection as to form.

15     A     I think that's something that -- to the extent  
16           of the fees or compensation would be something  
17           that I would have to confer with my attorney  
18           about.

19 Q If, in fact, it turns out that the Cahill,  
20 Gordon & Reindel firm made no attorney's fees  
21 in connection with your mother's case, then you  
22 wouldn't be seeking monetary damages from them,  
23 the Cahill Gordon firm, fair?

24 MR. COREN: Objection as to form.

25 A Again, that's something I would confer with my

1 attorney.

2 Q But sitting here today as the class  
3 representative with fiduciary duties to the  
4 class, you can't identify for me any pool of  
5 damages other than Cahill Gordon's attorney's  
6 fees earned in connection with individual cases  
7 that you would be seeking; is that true?

8 MR. COREN: Objection as to form.

9 A I don't necessarily know that.

10 Q Well, I want to know what you as a class  
11 representative are seeking from my client.  
12 What money damages are you seeking from my  
13 client other than the return of attorney's  
14 fees?

15 A I think that would be something that could also  
16 encompass other damages, but again, without  
17 conferring with my attorney, I couldn't name  
18 specific types of damages.

19 Q How much money would Engelhard have paid your  
20 mom had there not been false statements made in  
21 her case?

22 MR. COREN: Objection. I'm going  
23 to instruct the client not to answer. One, it  
24 deals with issues of the settlement. Two, it  
25 deals with her and her attorneys' work product.

1 Three, it calls for speculation. Four, it was  
2 a jury matter.

3 MR. GEYERMAN: Is attorney-client  
4 privilege or attorney work product the basis of  
5 that instruction?

6 MR. COREN: Yes, it is. That is  
7 the basis. I'm just going over other issues  
8 that were part of your form problem.

9 Q Do you know -- could you answer that question  
10 if counsel would allow you to answer the  
11 question?

12 A No, because it would call for speculation.

13 Q Are you certain about that?

14 A I believe so.

15 - - - - -

16 (Defendants' Exhibit 46 was marked.)

17 - - - - -

18 Q Ma'am, I'm handing you what I have marked as  
19 Defense Exhibit 46.

20 MR. GEYERMAN: Mr. Coren.

21 Q Do you remember earlier when counsel was asking  
22 you about the Second Amended Complaint, he  
23 asked about its reference to a November 12th,  
24 2008 letter?

25 A Yes.

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1 Q And I'm marking -- or I have marked Defense  
2 Exhibit 46, which is a November 12th, 2008  
3 letter addressed to John Mismas, Esquire at  
4 Bevan & Associates; is that right?

5 A Yes.

6 Q Who is John Mismas?

7 A I don't know.

8 Q You've never heard that name before?

9 A No.

10 Q You don't remember ever receiving  
11 correspondence that involved Mr. Mismas before?

12 A No.

13 Q But Bevan & Associates is Tom Bevan's law firm,  
14 right?

15 A That's correct.

16 Q Have you seen this letter before?

17 A I don't recall.

18 Q When you were provided the complaint in this  
19 case, either the original one or the most  
20 recent amendment, did -- were you supplied the  
21 exhibits to those complaints?

22 A I don't -- I'm not sure.

23 Q If you were supplied them, would you have read  
24 them?

25 A Possibly.

1 Q Is it your practice to review everything that  
2 your lawyers send you?

3 A It depends how large it is, but usually, yes.

4 Q How about with respect to the complaint in this  
5 case? And I'm focusing on that because it's  
6 the starting document of a lawsuit, so maybe  
7 you would be even more apt to review everything  
8 on the document that initiates the lawsuit.

9 A Yes.

10 Q Would you have read everything concerning the  
11 complaint that was provided to you?

12 A Yes.

13 Q So this letter is dated November 12th, 2008.  
14 Is that four months after your mother passed  
15 away?

16 A That sounds right.

17 Q She passed away in July of 2008?

18 A Correct.

19 Q So by November of 2008 you would have been the  
20 person making decisions on behalf of her  
21 estate?

22 A Correct.

23 Q And by the time she passed away in July of  
24 2008, her husband had passed away?

25 A Correct.

1 Q And are you an only child?

2 A Yes.

3 Q And you were the Executor of her estate?

4 A I am the Executrix, yes.

5 Q This letter is from Jennifer Riester, correct?

6 A Correct.

7 Q Jennifer Riester is the attorney from Weston  
8 Hurd that we just saw on the Motion For Summary  
9 Judgement filed in your mother's case?

10 A Correct.

11 Q There is no lawyer or other representative from  
12 Cahill Gordon listed on this letter, correct?

13 A No. It doesn't appear to be.

14 Q Was there any false statement that was  
15 contained in this letter, to your knowledge?

16 MR. COREN: Form. Objection.  
17 You may respond.

18 A That's something that I would have conferred  
19 with my attorney about.

20 Q Sitting here today looking at Defense Exhibit  
21 46, are you independently able to identify  
22 whether there's any false statement in this?

23 A I have no personal information other than how  
24 I've been advised by my attorneys.

25 Q Well, I'm not sure I understand what that

1 answer means.

2 A That means --

3 Q I'm not asking you to tell me what lawyers told  
4 you about this document, if they told you  
5 anything.

6 I'm simply asking you, as Donnette  
7 Wengerd sitting here, is there any false  
8 statement that you see in this letter?

9 A I do not know.

10 Q For all you know, there's no false statement in  
11 this letter?

12 MR. COREN: Objection as to form.

13 A I do not know.

14 Q You have no opinion one way or the other  
15 whether there are false statements in this  
16 letter; is that accurate?

17 MR. COREN: Form. Objection.

18 A Again, I do not know.

19 - - - - -

20 (Defendants' Exhibit 47 was marked.)

21 - - - - -

22 Q I'm going to hand you what I'm marking as  
23 Defense Exhibit 47. I just have a quick  
24 question on this document.

25 For the record, this has a Bates stamp of

1 PWMS-2319 and continuing through 2342. Is that  
2 your mother's signature on the first page of  
3 this document?

4 A Yes.

5 Q You recognize her signature?

6 A Yes.

7 Q And that first page is a verification of  
8 Plaintiff's second amended answers, correct?

9 A Yes.

10 Q And these are answers to interrogatories that  
11 your mother made and verified in connection  
12 with her underlying asbestos case, correct?

13 A Yes.

14 Q Do you know who Peter Sloane is?

15 A That name sounds familiar, but I don't recall  
16 off the top of my head.

17 Q But what do you associate Peter Sloane with?

18 A I don't associate him with anything. It just  
19 sounds familiar.

20 Q You don't necessarily associate him with this  
21 case?

22 A I don't know.

23 Q How about Ira Dembrow, does that name sound  
24 familiar?

25 A I don't know.



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1 Q Do you associate Ira Dembrow with anything in  
2 particular?

3 A I don't remember the name.

4 Q Do you associate Ira Dembrow with this case?

5 A I don't know.

6 Q Do you have any factual knowledge that Peter  
7 Sloane did anything wrong in connection with  
8 this case?

9 A I don't know.

10 Q Do you have any factual knowledge that Ira  
11 Dembrow did anything wrong in connection with  
12 this case?

13 A I don't know.

14 Q Do you have any factual knowledge that Peter  
15 Sloane did anything wrong in connection with  
16 your mother's underlying asbestos case?

17 A I don't know.

18 Q Do you have any factual knowledge that Ira  
19 Dembrow did anything wrong in connection with  
20 your mother's underlying asbestos case?

21 A I don't know.

22 Q Same question with respect to Cahill Gordon?

23 A I don't know.

24 Q If Cahill Gordon, Ira Dembrow or Peter Sloane  
25 did anything wrong, who would know?

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1 A My attorneys.

2 Q And those people would be who?

3 A Thomas Bevan.

4 Q Anybody else?

5 A Again, any number of the team that represent  
6 me.

7 Q "The team" meaning other people at Bevan &  
8 Associates?

9 A Also Mr. Placitella and Mr. -- I'm sorry. I'm  
10 having a total --

11 MR. COREN: Coren.

12 A Coren. It could be anyone at their firm as  
13 well.

14 THE VIDEOGRAPHER: Excuse me,  
15 sir. We have about five minutes left before we  
16 need to change the tape.

17 MR. GEYERMAN: Okay. I'm almost  
18 done.

19 Q A couple of questions. You mentioned at one  
20 point during Mr. Farrell's questioning that  
21 there was another firm that you believed was  
22 involved apart from the Placitella firm and  
23 apart from Bevan & Associates firm. Do you  
24 know if that's another Ohio law firm?

25 A I don't believe so.

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1 Q You believe that the law firm is based  
2 somewhere other than Ohio?

3 A New Jersey or New York, I believe.

4 Q Would you know the name of it if I said it to  
5 you?

6 A No. I'm sorry.

7 Q Is it the Fox Rothschild firm?

8 A I don't remember.

9 Q Have you ever spoken or in any way communicated  
10 with any lawyer from that law firm?

11 A Not that I'm aware of.

12 Q You were asked questions about a phone call  
13 that you had yesterday with Mr. Coren and  
14 Mr. Placitella.

15 A Yes.

16 Q Who called who?

17 A Mr. Coren called me.

18 Q Was that call planned in advance of yesterday?

19 MR. COREN: Objection. Don't  
20 answer.

21 A On advice of my attorney, I choose not to  
22 answer.

23 Q Could you answer that question if he would  
24 allow you to?

25 A Yes.

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1 Q In connection with this Williams case, what is  
2 your best estimate as to the amount of time  
3 that the Bevan law firm versus the Placitella  
4 law firm has spent working on this case?

5 MR. COREN: Objection.

6 A I don't know.

7 Q What's your impression as to which firm has  
8 spent more time on this case, the Placitella  
9 firm or the Bevan firm?

10 MR. COREN: Objection.

11 A Placitella.

12 Q Is the amount of time that your impression is  
13 that they have worked on these cases, that  
14 they're roughly equal and that's why you can't  
15 answer my question as to who has worked more in  
16 terms of a percentage?

17 MR. COREN: Objection as to form.

18 A Since I don't sit on their shoulder and watch  
19 what they do all day, I don't know who is doing  
20 more of what. I know that they are a team.  
21 Therefore, I don't know how the work product is  
22 distributed.

23 Q And I'm not asking for you to provide the end  
24 all answer to how much each of them has worked.  
25 I'm asking for your impression based on them

1 representing you in this case. Give me the  
2 percentage of the role that -- and I'm not  
3 asking for fees or anything like that. I'm  
4 simply asking in terms of your impressions,  
5 your personal impressions as to the relative  
6 amount of time that the Placitella firm has  
7 worked on this case versus the Bevan firm has  
8 worked on this case?

9 MR. COREN: You're asking for  
10 speculation. Form.

11 A I don't know. I don't know. I think  
12 Mr. Coren's law firm would definitely, at least  
13 currently, be more involved and spending more  
14 time.

15 Q And when you say "currently", is that because  
16 of who has been involved in the preparation of  
17 your deposition?

18 A No. Because I believe that Mr. Bevan also had  
19 a hand in it, especially when the original  
20 files were -- the complaint was made for my  
21 mother's original case.

22 Q Right. And Ms. Williams' case, I'll represent  
23 to you, was filed in March of 2011.

24 A Right.

25 Q Mr. Bevan had more of a role in the case as of

1 March of 2011?

2 A No. It would have been in my mother's personal  
3 case.

4 THE VIDEOGRAPHER: Sir, we have  
5 like 30 seconds.

6 MR. GEYERMAN: Okay. Let's take  
7 a break.

8 THE VIDEOGRAPHER: Off the  
9 record. The time is 1:33.

10 (Recess taken.)

11 THE VIDEOGRAPHER: Back on the  
12 record. The time is 1:38.

13 MR. GEYERMAN:

14 Q Ma'am, when you -- strike that.

15 When your mother's estate receives a  
16 payment from the underlying asbestos case, you  
17 told us earlier that you personally receive  
18 distributions in connection with that.

19 Do you remember that testimony?

20 A Yes.

21 Q Does that money go into a dedicated bank  
22 account?

23 A No, not necessarily.

24 Q Does it go into your personal checking account?

25 A No, not necessarily.

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1 Q Where does it go?

2 A Usually it goes into a savings account.

3 Q Is it -- I'm just wondering if there's a  
4 standard process. I'm not asking for any  
5 dollar amounts or anything like that. But when  
6 there's a settlement with a particular company,  
7 does the Bevan firm release that to you into a  
8 dedicated savings account?

9 A No. We have several, so it doesn't necessarily  
10 go into one dedicated.

11 Q Okay. Can you tell me all the accounts that  
12 the settlements go into?

13 A We have two savings accounts at this time and  
14 one checking account. It could go in any of  
15 them.

16 Q Who are the savings accounts with?

17 A Currently all the accounts would be with  
18 Towpath Credit Union.

19 Q Towpath?

20 A Uh-huh, T O W.

21 Q And both -- there's two savings accounts with  
22 Towpath?

23 A Yes.

24 Q Where is the checking account?

25 A Towpath.

1 Q Why do you have two savings accounts?

2 A Because we pay certain bills out of one, our  
3 taxes, and we pay -- we call it our SOL fund.

4 Q What's SOL stand for in this context?

5 A Shit out of luck. If something happens and the  
6 car breaks down, that's the account we go to.

7 Q Why would a given settlement distribution go  
8 into one of those three accounts and not --

9 MR. COREN: Grant, you're going  
10 to have to enlighten me how this possibly could  
11 be relevant.

12 MR. GEYERMAN: You know what,  
13 this is Discovery.

14 MR. COREN: I understand that.  
15 But it has to be relevant. Okay?

16 MR. GEYERMAN: Well, look, maybe  
17 we'll get to a point when we're going to be  
18 able to get documentation on this. So I want  
19 to find out, if we have trouble getting it --  
20 there's been lots of documents that in the last  
21 two days we've discovered you guys haven't  
22 provided to us. So I'm finding out a few basic  
23 facts to help you out if we ultimately get  
24 Discovery on this issue.

25 MR. COREN: Knowing what goes



1 into what particular bank account, I think, is

2 beyond the pail of reason.

3 Q The question, ma'am, is what would determine  
4 why a particular settlement distribution would  
5 go into one account versus another?

6 A If I have the card to one account and not the  
7 other. Literally. I've gone over a year  
8 without any access to the checking account, per  
9 my choice.

10 So if I happen to have the savings card  
11 and I can drop it off, or if I stop at the bank  
12 or --

13 Q Well --

14 A There's no rhyme or reason to it.

15 Q Every time there's a settlement, you have to go  
16 in and give Bevan a card to allow him to make  
17 the deposit?

18 A No. If I'm making a deposit to my bank, I  
19 would need the card.

20 Q So Mr. Bevan writes you the check, and then you  
21 make the deposit into the account, is that the  
22 process?

23 A Yes.

24 Q Got it.

25 Your grandfather is David Wertheimer?

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1 A Wertheimer.

2 Q Wertheimer.

3 Did he work at Goodrich or Goodyear?

4 A Goodrich, I believe.

5 MR. GEYERMAN: I don't have any  
6 further questions today.

7 As BASF's counsel indicated,  
8 we're keeping the deposition open in light of  
9 all of the instructions not to answer, the lack  
10 of production of documents and the lack of  
11 production of a verification form as to her  
12 answers to my client's interrogatories.

13 MR. COREN: Eric, do you have  
14 anything?

15 MR. TUNIS: Yeah, I have a few  
16 questions.

17 EXAMINATION OF DONNETTE WENGERD

18 BY MR. TUNIS:

19 Q Good afternoon, Ms. Wengerd.

20 A Hello.

21 Q I represent Thomas Halket in connection with  
22 this litigation. Are you familiar with the  
23 name Thomas Halket?

24 A It does sound familiar.

25 Q And in what context?

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1 A It sounds like I've heard that name in  
2 accordance with this complaint.

3 Q Okay. Do you know anything more specific?

4 A No. I don't have any personal knowledge other  
5 than what I would have discussed with my  
6 attorney.

7 Q I believe you previously testified that your  
8 mother complained of symptoms which she  
9 ultimately associated with the exposure to  
10 asbestos in December of 2007; is that correct?

11 A Correct.

12 Q Were you present when she complained of those  
13 symptoms?

14 A I was. And I don't believe at that time that  
15 she linked her symptoms to any specific ailment  
16 other than just not feeling well.

17 Q I understand.

18 Are you aware of whether she had  
19 expressed any similar symptoms prior to that  
20 day?

21 A No. They -- these symptoms were different than  
22 any that she had previously commented about  
23 that I can recall.

24 Q I see. And I believe you testified that after  
25 she experienced these symptoms in December, she

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1 consulted with a doctor in January; is that  
2 correct?

3 A That's correct.

4 Q Prior to December of 2007, had your mother  
5 expressed any concern about having been exposed  
6 to asbestos on the work site?

7 A Not that I recall.

8 Q Did she know of anybody who had filed a lawsuit  
9 claiming that he or she had sustained injuries  
10 as a result of exposure to asbestos?

11 A No, not that I know of.

12 Q What was the last -- when did your mother stop  
13 working for Goodyear?

14 A I don't recall the date without looking. I  
15 think it was 1978.

16 Q And ultimately she hired the Bevan law firm to  
17 represent her with respect to her claim related  
18 to her exposure to asbestos; is that correct?

19 A That's correct.

20 Q Do you know when she retained the Bevan law  
21 firm?

22 A I don't recall. It would have -- it would have  
23 been sometime after February of 2008.

24 Q And at that time had she received a diagnosis  
25 of mesothelioma?

1 A She received her diagnosis of mesothelioma, I  
2 believe, on Valentine's Day of 2008.

3 Q Do you know if she retained any law firm  
4 related to her claim prior to the Bevan law  
5 firm?

6 A I don't know. I don't think so.

7 MR. TUNIS: I don't have any  
8 further questions.

9 MR. COREN: John?

10 MR. BOYLE: This is John Boyle.  
11 We don't have any further questions at this  
12 time, subject to the same reservations that  
13 have been stated by counsel for the other  
14 Defendants.

15 MR. COREN: Well, I believe  
16 that's a wrap.

17 THE VIDEOGRAPHER: We're off the  
18 record. The time is 1:47.

19 (Deposition was adjourned at 1:47 p.m.)

20 (Signature reserved.)

21

22

23

24

25

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1 THE STATE OF OHIO, ) SS:  
2 COUNTY OF CUYAHOGA. )  
3

4 I, Jill A. Kulewsky, a Notary Public within and  
5 for the State of Ohio, duly commissioned and  
6 qualified, do hereby certify that Donnette Wengerd,  
7 was first duly sworn to testify the truth, the whole  
8 truth and nothing but the truth in the cause  
9 aforesaid; that the testimony then given by her was  
10 by me reduced to stenotypy in the presence of said  
11 witness, afterwards transcribed on a  
12 computer/printer, and that the foregoing is a true  
and correct transcript of the testimony so given by  
her as aforesaid.

10 I do further certify that this deposition was  
11 taken at the time and place in the foregoing caption  
12 specified. I do further certify that I am not a  
relative, counsel or attorney of either party, or  
otherwise interested in the event of this action.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 and affixed my seal of office at Cleveland, Ohio, on  
15 this 10th day of April, 2017.

15

16

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19

*Jill Kulewsky / RA*

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25

Jill A. Kulewsky, Notary Public  
within and for the State of Ohio  
My Commission expires August 31,  
2020.

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1 U.S DISTRICT COURT )  
2 DISTRICT OF COLORADO ) SS:  
3  
4  
5

6 Before me, a Notary Public in and for said  
7 state and county, personally appeared the  
8 above-named Donnette Wengerd, who acknowledged that  
9 she did sign the foregoing transcript and that the  
10 same is a true and correct transcript of the  
11 testimony so given.

12 IN TESTIMONY WHEREOF, I have hereunto affixed  
13 my name and official seal at  
14 this day of  
15 , 2017.  
16  
17  
18

19 Donnette Wengerd

20  
21 Notary Public

22 My Commission expires:  
23  
24  
25

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